

103
**NOMINATIONS TO POSITIONS AT THE
ENVIRONMENTAL PROTECTION AGENCY**

Y 4. P 96/10: S. HRG. 103-301

Nominations to Positions at the Env...

RINGS
BEFORE THE
**COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE**
ONE HUNDRED THIRD CONGRESS

FIRST SESSION

ON

THE NOMINATIONS OF ROBERT W. PERCIASEPE, TO BE ASSISTANT ADMINISTRATOR, OFFICE OF WATER; ELLIOTT P. LAWS, TO BE ASSISTANT ADMINISTRATOR, OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE; LYNN R. GOLDMAN, TO BE ASSISTANT ADMINISTRATOR, OFFICE OF PREVENTION, PESTICIDES, AND TOXIC SUBSTANCES; JEAN C. NELSON, TO BE GENERAL COUNSEL; MARY D. NICHOLS, TO BE ASSISTANT ADMINISTRATOR, OFFICE OF AIR AND RADIATION; AND JONATHAN Z. CANNON, TO BE ASSISTANT ADMINISTRATOR, OFFICE OF ADMINISTRATION AND RESOURCES MANAGEMENT

SEPTEMBER 29, AND OCTOBER 20, 1993

Printed for the use of the Committee on Environment and Public Works



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NOMINATIONS TO POSITIONS AT THE ENVIRONMENTAL PROTECTION AGENCY

WEDNESDAY, SEPTEMBER 29, 1993

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC.

The committee met, pursuant to notice, at 9:36 a.m. in room 406, Dirksen Senate Office Building, Hon. Max Baucus [chairman of the committee] presiding.

Present: Senators Baucus and Warner.

OPENING STATEMENT OF HON. MAX BAUCUS, U.S. SENATOR FROM THE STATE OF MONTANA

Senator BAUCUS. The committee will come to order.

This morning we have several nominations for positions at the Environmental Protection Agency. I have a short statement. I expect other Senators, who will be introducing the nominees, will arrive. At that time I will turn the hearing over to those Senators who will then make those introductions. Following the introductions we will get to questions of each of the individual nominees.

We have first this morning Mr. Robert Perciasepe, who is nominated to be Assistant Administrator for the Office of Water; Dr. Lynn Goldman, nominated to be Assistant Administrator for the Office of Prevention, Pesticides and Toxic Substances; Mr. Elliott Laws, nominated to be Assistant Administrator for the Office of Solid Waste and Emergency Response; and Ms. Jean Nelson, nominated to be General Counsel.

For the EPA to be able to do its job effectively, it must have its most senior level positions filled. No matter how talented they may be, the Administrator and the Deputy Administrator cannot run the EPA's program offices all by themselves. They don't have the time, nor do they have the resources.

The EPA has many talented civil servants. EPA's career employees are the backbone of the agency. They are the dedicated public servants who must ultimately carry out the work of protecting the Nation's environment. However, it is you, Mr. Perciasepe, Dr. Goldman, Mr. Laws, and Ms. Nelson, the political appointees, who are ultimately responsible and accountable for the agency's decisions. The President has placed in each of you a very sacred trust: to enforce the laws which protect our environment, a job which will not be easy.

While there have been several important accomplishments during the last decade—notably, the Clean Air Act—we still have a

long way to go. We are losing wetlands at a rate of 300,000 acres per year. We have generated mountains of solid and hazardous waste, while opposition to landfills and incineration has intensified.

We continue to fall far short of our goal of making our waters fishable and swimmable. We have fallen far behind schedule in implementing the new Clean Air Act, and some of our most fundamental environmental laws, including Superfund and the Endangered Species Act, have been mired in controversy over objectives and implementation.

Your challenge is great, and that challenge is made even greater by the expectations of the American people, because they expect change. They expect that our environmental laws will work to protect the environment, not fill the pocketbooks of lawyers and consultants, and they expect our environmental laws to make sense.

I had lunch just two days ago with a group of people who are involved in a joint study between EPA and Amoco regarding Amoco's Yorktown refinery. They told me of the frustration they felt with EPA's regulations, which required the company to spend \$41 million to build a wastewater treatment facility when they could have achieved greater reduction of pollution for just \$11 million. This simply does not make sense, and all of us have a responsibility to figure out how to make our environmental laws work more effectively and efficiently and become more integrated to keep those kinds of problems from recurring.

In one sense, it is fortunate that a number of nominees are moving through the confirmation process together. I hope that the fact that all of you will be arriving at EPA at the same time will help you to work well together. You must be able to cooperate, to come up with ideas and proposals for change that cut across jurisdictional lines and avoid future problems, like the one at the Amoco facility.

It is clear to me that we can no longer afford to view EPA programs as separate and independent kingdoms, competing against each other. We can no longer view environmental problems through a microscope that misses the big picture. We need to adopt an integrated view of environmental protection.

I look forward to working with each of you to explore ways to accomplish that objective.

Finally, as confirmed officials you will be accountable not only to the President to carry out his program, but also to the Congress, which has the Constitutional obligation to see that the Nation's laws are being implemented properly. And most important, you have an obligation to the American people.

I do not believe that the American people want us to enact a shelf of new laws just for the sake of appearing busy. Rather, they want us to make the laws that we have now, work better. They want us to establish priorities. They want us to cooperate and not be mired in partisan gridlock, and they want us to make those tough decisions that are necessary.

Most of all, I believe they want us to raise our sights and concentrate on the legacy that this generation will bequeath to the future. Each of you brings a wealth of experience and innovation to EPA, and I hope that this collective experience can be put to good use.

I hope for more than that, however. I hope that you can pool your knowledge and experience and come up with suggestions as to how to improve EPA's programs in general. EPA cannot afford to do business as it has in the past; it has to do better. If you are confirmed, there will be no better opportunity to improve this agency than when all of you begin to work together.

I want to thank each of you for being here this morning. I look forward to working with all of you.

At this time I will ask the Senators who are here to introduce their respective nominees.

Let's see. Senator Paul Sarbanes is here from Maryland, and Senator Harlan Mathews from Tennessee.

I guess, Senator Sarbanes, you're going to introduce Mr. Perciasepe?

Senator SARBANES. Yes.

Senator BAUCUS. And Senator Mathews, Ms. Nelson.

STATEMENT OF HON. PAUL S. SARBANES, U.S. SENATOR FROM THE STATE OF MARYLAND

Senator SARBANES. Mr. Chairman, thank you very much. I appreciate the opportunity to appear before the committee.

Before I turn to introducing Bob Perciasepe, let me say that I very much agree with the very thoughtful opening statement which you just made which I was fortunate to be present to hear. I think that the charge that you gave to the nominees before the committee was very well put. I want to associate myself with it.

I appreciate this opportunity to introduce and to express my very strong support for Bob Perciasepe, the President's nominee for Assistant Administrator for Water in the Environmental Protection Agency. I have known and worked with Bob Perciasepe for many years on a variety of very critical and complex environmental issues and have found him to be an exceptionally able and talented and committed individual.

Bob's career encompasses over 18 years of increasingly important and responsible positions in public service, with the city of Baltimore and then with the State of Maryland, in the areas of environmental management, planning, and pollution control. He is currently the Secretary—or was, until this nomination came along—of Maryland's Department of Environment, we think one of the best in the country, an agency of 850 employees and a budget of over \$300 million.

In that job he has earned a reputation as an effective and innovative manager, spearheading efforts to meet difficult environmental challenges and meeting increased responsibilities at a time of diminishing resources. He has provided very strong leadership to the multijurisdictional effort to clean up the Chesapeake Bay, initiating pollution prevention programs, expanding nitrogen removal efforts at major sewage treatment plants, strengthening the financing of the State's revolving loan fund, and improving the State's enforcement and compliance records.

He was instrumental in directing an evaluation of the Bay Program's unprecedented nutrient reduction strategy, and working in a very effective cooperative way with the other Bay area States. He

has also been instrumental in helping to develop the Chesapeake Bay Restoration Act, which is before your committee, hopefully, for inclusion with the Clean Water Act as the next step in that major environmental effort.

Bob Perciasepe has a long and distinguished record of accomplishment in addressing other environmental problems and concerns, as well. He has helped develop innovative air pollution programs for the Washington, Baltimore, and Philadelphia nonattainment areas. He has negotiated a new solid waste accord with industry, municipalities, counties, and environmental organizations; he brought them all together, which is a very impressive accomplishment. The accord calls for greater recycling and more public participation.

I listened when you talked, Mr. Chairman, about the need to have an integrated approach and an integrated outlook in dealing with these problems. I do want to make the point that while Bob is nominated to be the Assistant Administrator for Water, his service as Secretary of the Maryland Department of the Environment has required him to deal with all of the environmental issues across the board. So you are getting an Assistant Administrator for Water, but he has had to deal very intimately with air pollution problems, with solid waste problems, and the whole range of issues that affect our environmental protection and enhancement.

I believe he brings to EPA the experience, the commitment, and the management abilities we need to lead the Federal Government's efforts to protect and restore our Nation's environment. It is my own very strongly held view that he will be a great asset to the administration. I urge the committee to act favorably and swiftly on this nomination.

Thank you very much.

Senator BAUCUS. Thank you very much, Senator.

Mr. Perciasepe, you should be very proud and honored to be endorsed so fully by the Senator from Maryland. There aren't many Senators here who are more thoughtful or hard-working or dedicated public servants than your Senator from Maryland. That strong statement from Senator Sarbanes sits very well with this committee.

Thank you very much, Senator.

Mr. Perciasepe, at this point I would like you to introduce your family to everyone. Could you please do so?

Mr. PERCIASEPE. Sure. That's half the room, I think, Mr. Chairman.

[Laughter.]

Mr. PERCIASEPE. Elliott and I have got the place covered with our families.

First I'd like to introduce my wife, Lee Palmer, and my two daughters, Laura and Julia.

Senator BAUCUS. Could you all three stand, please?

Great. Thank you. Welcome.

Mr. PERCIASEPE. Behind them are my mother and father, Betty and Bill Perciasepe, here today from Florida.

Senator BAUCUS. It's an honor to have you here.

Mr. PERCIASEPE. My sister and brother-in-law, Elizabeth and Michael Reeves from New York. You can see it's a national family.

And my wife's family, Phillip and Muriel, also from New York, Long Island.

Senator BAUCUS. We're very happy to have you all here. Thank you.

Mr. PERCIASEPE. I appreciate all their support.

Senator BAUCUS. Good.

Senator Mathews?

STATEMENT OF HON. HARLAN MATHEWS, U.S. SENATOR FROM THE STATE OF TENNESSEE

Senator MATHEWS. Thank you, Mr. Chairman.

You know, in this day and time when we are talking so much about all of the special privileges that Senators and Members of Congress have, and as we look at the many perks we have, I believe that one of the real perks we as Senators have is the opportunity to present to Members of Congress, to our colleagues, to the important committees of Congress, distinguished persons from our States who have been selected for office. It is in that vein that I come before the committee today, and I am very proud to introduce an outstanding Tennessean, Ms. Jean Nelson, who has been nominated by President Clinton to serve as General Counsel at EPA.

Jean comes with a boatload—if I can use the vernacular—of credentials for this job. I have known her for many years and have had the privilege of working closely with her in Tennessee State government, where she served in the Office of Attorney General for the past five years. She is a capable and experienced individual whose credentials reflect an ongoing commitment to quality and professional excellence.

Prior to joining the Office of the Tennessee Attorney General, Jean pursued a distinguished career as a partner in the prestigious law firm of Gullett, Sanford, Robinson, & Martin of Nashville, with emphasis on administrative law, general business litigation, and health law.

This nomination represents the Clinton Administration's consistent commitment to environmental protection, which stresses the importance of a balance between regulation and preservation. In addition to a brilliant legal career, Jean is active in diverse venues of community service that include assistance to local environmental concerns, as is evidenced by her work with the Southern Environmental Law Center, the Tennessee Environmental Action Fund, and the Tennessee Environmental Council.

Jean Nelson will bring fairness, sound judgment, and responsibility to her role at EPA. She has the trust and confidence of industry and environmental activists alike.

I am convinced, Mr. Chairman, that her record of success and accomplishment will be an asset to the Environmental Protection Agency, and I look forward to working with her as she assumes her new duties. It is therefore a privilege to introduce, with my highest recommendation, Jean Nelson.

Thank you, Mr. Chairman.

Senator BAUCUS. Thank you, Senator. That was very good. I appreciate that.

Senator WARNER. Mr. Chairman, can I also join you in complimenting our colleague?

For those of us who have been here a long time—most people think too long——

Senator SARBANES. Not all of us think that, Senator Warner.

[Laughter.]

Senator WARNER. That was a very marvelous thing you said. It is a privilege—indeed, I suppose, a perk, but a privilege—for us to introduce these outstanding persons. And with the custom in the Senate, it makes no difference who is the President, of which party; we all do it, and we join together. Senator Sarbanes has done it so many times and very thoroughly. Each time, he does it very carefully. I would like to be introduced by both of you someday.

[Laughter.]

Senator BAUCUS. Well, Senator, now you have your turn, because now you can introduce Mr. Laws.

Senator MATHEWS. Could Jean present her family?

Senator BAUCUS. Oh, yes, I'm sorry.

Ms. Nelson, could you please introduce your family?

Ms. NELSON. I would be pleased to.

Senator BAUCUS. I would appreciate if they would all stand and stay standing so that we can all see you.

Ms. NELSON. I would first like to present my husband Will Martin, who is also my partner in environmental interests and concerns. He is the Deputy Assistant Secretary for International Interests at NOAA.

My parents, Marion and Charles Nelson, who are here from Tennessee. I'm so pleased to have them with me.

Unfortunately, our children—one lives in Wyoming, and the other has just started graduate school in Nashville and were not able to be here, nor was my mother-in-law, who is in Kentucky. But we have some other very good friends from Tennessee who are here, and one from Germany. I would like for them to stand, too.

Senator BAUCUS. Wonderful. I know you are all very proud of Ms. Nelson.

Senator Warner, we are honored to have you make this next introduction.

STATEMENT OF HON. JOHN W. WARNER, U.S. SENATOR FROM THE COMMONWEALTH OF VIRGINIA

Senator WARNER. Thank you, Mr. Chairman.

I have been privileged to serve with the chairman on this committee for some several years. As our colleague says, it's a privilege for me to introduce this outstanding American today, who is about to embark on a very challenging chapter in his career of public service.

I would ask the Chair first to invite him to introduce the members of his family.

Senator BAUCUS. Mr. Laws, would you please?

Mr. LAWS. Thank you. I guess the other half of the room is mine.

[Laughter.]

Senator BAUCUS. Right.

Mr. LAWS. My wife, Karen——

Senator BAUCUS. Stay standing, please. Don't be bashful. Don't be shy.

Mr. LAWS. —and my mother, Elvira Laws, from Williamsburg; my brother, James, and his two children, Daniel, who is 11, and Erin, who is 7; my sister, Christine, and her husband, Robert Armstead, and their two children, Charlotte, who is 2, and Alexandra, who is now 5.

I would also like to introduce our daughter, Lena, who is going to handle all the elective politics of the family.

[Laughter.]

Mr. LAWS. She is serving as treasurer of her elementary school right now.

I am very happy to have them here.

Senator BAUCUS. We thank you all very much.

Senator WARNER. Mr. Chairman, could I exercise a prerogative and ask Lena if she would sit next to me up here while I introduce her daddy?

Come right on up. If you're going to run the politics, come right up here. Yes.

[Laughter.]

Senator WARNER. There you are.

Mr. LAWS. I would just ask that the committee not ask her any questions.

[Laughter.]

Senator BAUCUS. Oh, no.

[Laughter.]

Senator BAUCUS. I already have some good questions in mind.

Senator WARNER. Mr. Chairman and guests here today, I think it's terribly important that the families and friends come for this day, because it is one that they will always remember as the nominees undertake these arduous tasks in these difficult times. They will need the support of their families and friends, particularly those who have traveled to join them today.

So, Mr. Chairman, I am very pleased to have this opportunity to introduce to the committee Elliott P. Laws, nominated by the President of the United States to be the Assistant Administrator of the Office of Solid Waste and Emergency Response of the Environmental Protection Agency.

Mr. Laws is here today with his wife, Karen, and his step-daughter, Lena, as well as other members of his family. President Clinton has made a fine choice, and I repeat, I commend the President, he has made a fine choice in selecting Elliott Laws to head a difficult office in the EPA.

He brings with him an extensive background in many of the issues over which this office has jurisdiction. Particularly, he has spent many years specializing in environmental litigation and administrative law under several of the major environmental laws, including Superfund, the Resource Conservation and Recovery Act, as well as the Clean Water Act and the Clean Air Act. Not only has Mr. Laws served in private practice in one of Washington's most prestigious law firms—that's Patton, Boggs & Blow—is that correct?

Mr. LAWS. That's correct.

Senator WARNER. You tell George Blow that I introduced you. He and I sat together in law school; that shows you how ancient I am.
[Laughter.]

Senator WARNER. But he also has extensive experience as a Government lawyer at both the Environmental Protection Agency and the Department of Justice.

I don't need to remind the chairman and the members of this committee of the important challenges that lie ahead for Mr. Laws in the position for which he has been nominated. In the very near future the administration will be sending to the Congress a bill to reauthorize the Superfund law, one of the most controversial and criticized laws that any of us have encountered here in the Congress.

You, Mr. Laws, if confirmed by the Senate, and I am confident that you will be, will serve as one of the primary spokesmen for this particularly important piece of reauthorization legislation.

Many other challenges lie ahead of you in the implementation of the Resource Conservation and Recovery Act. Your background qualifies you well to do these tasks.

Mr. Chairman, I thank you very much.

Now you are on your own. Thank you very much.

Mr. LAWS. Thank you very much.

Senator BAUCUS. Lena, I have a question I want to ask you.

[Laughter.]

Senator BAUCUS. Do you think our country should recycle more of our waste, or not?

Mr. COHEN. Yes.

[Laughter.]

Senator BAUCUS. Good. No more questions.

[Laughter.]

Senator WARNER. I think she better get the message to the White House.

Senator BAUCUS. We're working through her father first. That's the next step.

[Laughter.]

Senator BAUCUS. Thank you both, very much. Thank you, Lena, and thank you, Mr. Laws.

Senator Mikulski had intended to come here to introduce our next nominee, but she has been detained. Actually, Senator Mikulski did associate herself with the remarks of Senator Sarbanes, and did submit a separate statement.

[Senator Mikulski's statement follows:]

BARBARA A. MIKULSKI
MARYLAND

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SELECT COMMITTEE ON ETHICS

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United States Senate
WASHINGTON, DC 20510-2003

September 28, 1993

Honorable Max Baucus
Chairman
Committee on Environment and Public Works
SD-456
Washington, D.C. 20510

Dear Chairman Baucus:

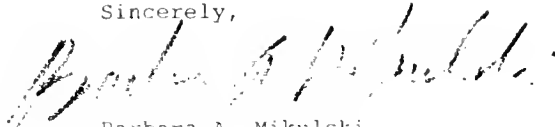
I am writing to introduce my constituent Bob Perciasepe for the position of Assistant Administrator of Water at the Environmental Protection Agency. I had hoped to be there in person, but scheduling conflicts do not permit me to attend his hearing.

It has been my pleasure to work closely with Bob Perciasepe in his role as Secretary of the Maryland Department of the Environment. He has strong qualifications and experience on issues dealing with pollution control and environmental protection.

Through his leadership of Maryland's environmental programs, Bob Perciasepe has recognized the need for a balanced approach to solving environmental problems and moving us into the 21st Century. He has also coordinated the multi-state approach to cleaning up the Chesapeake Bay watershed and he has put Maryland outfront in its innovative tributary strategy on the Bay.

I commend Mr. Perciasepe to the Committee.

Sincerely,



Barbara A. Mikulski
United States Senator

BAM:gml

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Senator BAUCUS. Senator Boxer wished to introduce Lynn Goldman this morning; she could not be here. However, she has submitted a statement for the record.

[Senator Boxer's statement follows:]

**SENATOR BARBARA BOXER
STATEMENT ON EPA
NOMINEES;
INTRODUCTION OF
DR. LYNN GOLDMAN**

Mr. Chairman, thank you for calling this hearing to allow the Committee to review the President's nominations to four key and high ranking EPA posts. I will keep my remarks brief.

I welcome the opportunity to meet with

the highly qualified candidates gathered before us this morning and discuss the priorities that they will bring to the posts that they have been nominated to. I am particularly interested in hearing the nominees thoughts on how they will improve the communication and cooperation between the various EPA programs that they will manage if confirmed.

I want to extend a special welcome to a

fellow Californian among the nominees, Dr. Lynn Goldman. Dr. Goldman is a pediatrician and a distinguished public health expert who has served the people of my state in her capacity as an officer of California's Health Department for nearly 10 years. She is widely published in the public and environmental health fields and has served on numerous public advisory boards.

Most recently, Dr. Goldman served as the acting chief of the environmental and

occupational disease control division of the California Department of Health Services.

In that capacity, Dr. Goldman initiated a comprehensive program to monitor and prevent childhood lead poisoning.

Finally, I want to stress my own personal connection to Dr. Goldman. Several years ago, I chaired a series of House subcommittee hearings to investigate the disastrous Southern Pacific train derailment and herbicide spill into the Sacramento river near Dunsmuir, California. Dr. Goldman

gave many hours of testimony before those hearings and helped bring to light that spill's potential public health threats.

I am confident that Dr. Goldman will make a superb addition to the EPA and strongly recommend her nomination to the Committee. Thank you Mr. Chairman.

Senator BAUCUS. I would like to say a few words about Lynn Goldman.

I am very impressed with your credentials. I see that you're both an epidemiologist and a pediatrician. I think that perspective is very important.

Ms. Goldman is presently Acting Chief of the Division of Environmental and Occupational Disease Control for the California Department of Health Services. In that capacity she is responsible for certain environmental investigations with respect to occupational health, and childhood lead poisoning prevention. I'm very pleased that you're involved in that, Ms. Goldman.

Ms. Goldman received her bachelor of science in the conservation of natural resources in 1976, and also a masters in health and medical sciences in 1979 from the University of California at Berkeley, and also an MPH from Johns Hopkins and an M.D. in 1981 from the University of California at San Francisco. As I mentioned, she is a board-certified pediatrician.

From 1986 to 1989, Dr. Goldman served in the California Department of Health Services as Chief of the Environmental Epidemiology Unit, Chief of the Environmental Epidemiology and Toxicology Section, and Chief of the Environmental Health Investigations Branch. She also currently serves on several advisory panels with the National Research Council.

This is a very impressive background. We are very honored to have the President nominate somebody such as you, with that background.

Would you like to introduce your family?

Dr. GOLDMAN. Yes. First I would like to thank you for pinch-hitting for Senator Boxer. I appreciate that.

This is my mother, Barbara Goldman—actually, my mother and my best friend.

My brother, David Goldman, who directs a laboratory at NIH.

And my husband, Douglas Hayward, who braved the continent to come up to Washington to be with me.

Senator BAUCUS. Thank you very much.

All right. I would like all the nominees, please, to sit at the table.

I first have two questions. These are obligatory questions I must ask each of you. Following these two questions, I would like each of you to give whatever statements you wish to make.

First, are you willing, at the request of any duly constituted committee of the Congress, to appear in front of it as a witness?

[All answer affirmatively.]

Senator BAUCUS. Let the record show that all four answered affirmatively.

Second, do you know of any matters which you may or may not have thus far disclosed which might place you in any conflict of interest if you are confirmed in this position?

[All answer negatively.]

Senator BAUCUS. Let the record show that each of the four witnesses answered negatively.

All right. I will begin with Mr. Perciasepe, if you have a statement that you wish to make.

**STATEMENT OF ROBERT W. PERCIASEPE, TO BE ASSISTANT
ADMINISTRATOR, OFFICE OF WATER**

Mr. PERCIASEPE. Thank you, Mr. Chairman and members of the committee, and thank you for the opportunity to introduce my family. I also want to thank Senator Sarbanes for his very warm introduction and Senator Mikulski for her letter.

It is an honor to be here today as the President's nominee for Assistant Administrator for Water at the United States Environmental Protection Agency. It is also especially exciting that I have been asked by Administrator Carol Browner, who is working to move the country to a new level of environmental awareness and action. Senator, I think some of your comments are very much on point in that regard.

I am looking forward to working hard—that's one of the things that I've always done in my career—working hard and closely with Congress. I want to establish a very good working relationship. I have already been over here watching some of the work that the staff has been doing, just so I can get acclimated.

In my career I have pursued public service with a passion. It has been my entire career, and it's something I feel very deeply about. I think we have a responsibility to be inclusive in working with interested parties and communicating between environmental groups, business groups, as well as State and local governments. I think that's essential to environmental policy development.

Being inclusive is also essential to those to whom the benefits accrue, and I think that's important to consider on the outcome side of what we do.

I think that I have an opportunity, as Senator Sarbanes said, to bring this local government and State government perspective to the Office of Water that I think will be really helpful. At the municipal level for the city of Baltimore, I worked on infrastructure and environmental issues at the State level, I was with the Department of the Environment for six years, the last three as the Secretary.

I think that those local and State experiences will really help as we fashion State, Federal, and local partnerships to solve our many problems.

In Maryland we made a lot of progress on the Chesapeake Bay over the last six years, and I think that's really an exemplary program of State-Federal teamwork that is essential to the future of our water programs. Looking at entire ecosystems and developing integrated management programs that go beyond just the basic programs that we have is what we are really looking for in some of our programs, and I think it's a hallmark of the successful Bay Program. I was really proud to be part of that and hope to be able to keep an eye on it while I am at EPA.

Senator BAUCUS. This committee is very impressed with the progress that has been made on the Bay. There have been several hearings before this committee on the Chesapeake Bay, and it is very clear that a lot of dedicated people worked very, very hard—the Executive Director of the Save the Bay Committee, he is one of the more impressive witnesses—

Mr. PERCIASEPE. Will Baker.

Senator BAUCUS. Yes, that's the fellow. So I am very appreciative. We are very aware of what you're saying and we commend you for it.

Mr. PERCIASEPE. Thank you, Mr. Chairman.

Also, I worked very hard on the State revolving fund in Maryland. We now have over \$200 million in loans in the State of Maryland. As you know, Maryland is just north of here; it's not the biggest State in the country, but it's a nice medium-sized State, and \$200 is a lot of activity. A lot of that has gone to small communities. We created a pooled loan system that allowed even unrated small communities to get into the pool, and remain unrated. Working with the Board Rating Agencies in New York, we established a percentage of each loan pool that could be used that way.

The other thing that we've worked on very hard in the infrastructure area was rural water supplies. We had a small program in Maryland; we tried to integrate it with the Farmers Home Administration, now the Rural Development Administration, and many other agencies, like the Appalachian Regional Commission in Maryland. I think we made some progress there. I think more progress is needed to provide safe drinking water infrastructure, and a lot of that is along the lines that have been outlined in the President's Vision of Change for America.

I think as Senator Sarbanes said, my involvement in all of the environmental programs in Maryland will help as we develop new multimedia solutions and enforcement actions, whether it's linking air deposition to some of the water problems we have; whether it's looking at comprehensive groundwater strategies that cut across the institutional boundaries; or addressing environmental justice issues that also cut across, I think my background will help, even in those matters.

Also, while running a large State agency, I was very dedicated to quality management and employee empowerment. I couldn't agree more with the comments you made, Mr. Chairman, about the quality, caliber, and dedication of the employees at the Environmental Protection Agency. I plan to do nothing more than be a cheerleader for them and move them ahead and let them achieve what needs to be achieved. I think a quality and motivated staff is key to getting our work done, particularly when resources are squeezed.

I will continue a focus at EPA that I also had at Maryland, and that was on public participation and participation of all parties. It was something that was very important to me and I think I will want to continue it.

I have some areas that I would like to concentrate on, and I will mention those very briefly.

First of all, I think we have a real opportunity right now in the Clean Water Act. This committee and yourself, Mr. Chairman, as a co-sponsor, have really made great progress in putting forth a thoughtful and creative bill, whether it be looking at future funding and getting that stabilized for the State and municipal partners we have, whether it be enhancing our enforcement programs, moving ahead a little on nonpoint sources and polluted runoff, enhancing our wetlands protection program, invigorating a new watershed approach to water quality management, I think we share those mutual goals and I really am looking forward to working

with the committee on that and with the business community, with environmentalists, utilities, cities, and States. We need to make it happen. We need to get it through the Congress and reinvigorate those programs nationally.

The Safe Drinking Water Act also needs our attention. We have to rationalize some of the processes in the existing Act. We have to give more help to local and State governments through the revolving fund and a fee program, and I think we need to strengthen the enforcement program and provide a clear message that we have to protect the sources from which this water comes, not just always focus on the treatment. We must not give up on that broader approach to preferring drinking water quality. I think the recent report which we've all read about from the Natural Resources Defense Council highlights some of the issues, and I think it focuses our attentions on the fact that we can never take safe drinking water for granted. We have to have the resources, we have to have the planning, we have to have the oversight, the regulatory commitment, and we have to have solid public commitment to keep it safe. I am committed to working with you to make that happen.

One area that is very important to me and one of the main reasons I took this job is to improve and enhance the relationship among EPA, States, and local governments. This is something that is essential if we are to move ahead. This partnership has to be improved; these relationships have to be better defined, and I think they have to be built on trust. We have to trust each other to solve the problems.

Also, I would like to work on rulemaking, the whole process of rulemaking. We need ways to improve it, make it more sensitive to the statutory requirements, include more stakeholders, and together work on more realistic schedules so that we don't have the courts totally driving some of our agenda.

I mentioned multimedia considerations and I will mention it again briefly. I think that we have to consider our mission more broadly. We must find ways to integrate programs in a context that protects whole ecosystems, and I think we have an opportunity in my area during the Clean Water Act and Safe Drinking Water Act reauthorizations to build ecosystem protection concepts into the programs. We can build them into watershed management; we can build them into source protection programs, and I think this is a way we can move ahead in our environmental programs in the United States.

I am anxious to get started; I am anxious to work with you; I am anxious for the chance to work with Administrator Browner. I consider this to be a once-in-a-lifetime opportunity and I want to work hard. I think we need to move everything we do to a newer height. I think we need to preserve the base upon which we've built our environmental successes; don't let it erode, but still move environmental protection to a higher place. We have to employ virtually all the tools we can muster to do that.

So I am committed to working hard with you, with the administration, and I appreciate your support.

Senator BAUCUS. Well, thank you very much, Mr. Perciasepe. That's a very thoughtful statement and one that portrays you as a very dedicated person. That's very much appreciated.

Senator Sasser is here now to introduce Ms. Nelson, along with Senator Mathews. We're very honored to have you here, Senator.

**STATEMENT OF HON. JIM SASSER, U.S. SENATOR FROM THE
STATE OF TENNESSEE**

Senator SASSER. Thank you, Mr. Chairman. I am very pleased to be here this morning, and I want to thank you and the committee for allowing me to appear here this morning briefly to introduce Ms. Jean Nelson, who has been nominated by the President to serve as General Counsel of the Environmental Protection Agency.

I might say, Mr. Chairman, that I've known Ms. Nelson for many, many, many years. She is ideally suited, in my judgment, for this position. She is a highly respected attorney. She has a broad background of experience in environmental issues, and I think she will bring both the tenacity and the toughness that is needed, combined with a balanced and a pragmatic approach, to the problems facing the Environmental Protection Agency.

I believe that her outstanding organizational and administrative skills will also serve the agency very well. Since 1988, Ms. Nelson has served as the Chief Deputy Attorney General for the State of Tennessee, where she managed as many as 110 attorneys, and had a budget of close to \$12 million.

I think of particular interest to you, Mr. Chairman, is the fact that her responsibilities included the handling of many environmental lawsuits. In addition, she played a crucial role in the development of an environmental program to compliment the environmental defense and counseling functions of the office that she filled in the State of Tennessee.

Her interest in the environment is not limited to her service in the Attorney General's office. She is chair of the Greenways Commission for Metropolitan Nashville and Davidson County in Tennessee. She is also a former president of the Environmental Action Fund, and is a founding member of the board of directors of the Environmental Law Center, a nonprofit environmental advocacy group serving all of the southeastern United States.

I might say that Jean Nelson's nomination has been very well received in her home State. The Nashville Tennessean, the morning newspaper in Nashville, stated in a July 25th editorial,

The Environmental Protection Agency could hardly get someone better qualified for the job. Her legal skills and understanding of a wide range of environmental issues should lend badly needed credibility. Nashville is sorry to lose Ms. Nelson, but it knows that the Nation is getting some top-rated ability.


So I think that the editorial in the Nashville Tennessean speaks very well of her qualifications.

Mr. Chairman, I will just end it on that note because I know you have a number of witnesses to appear this morning. I would ask that my entire statement appear in the record, and I would commend my unqualified support to Ms. Nelson for this position for which the committee is considering her.

[Senator Sasser's statement follows:]

*STATEMENT OF
SENATOR JIM SASSER
IN SUPPORT OF CONFIRMATION OF
JEAN NELSON
TO BE GENERAL COUNSEL
ENVIRONMENTAL PROTECTION AGENCY
SEPTEMBER 29, 1993*

Mr. Chairman, it is my great pleasure to introduce Ms. Jean Nelson who has been nominated by the President to serve as general counsel of the Environmental Protection Agency.

Ms. Nelson is ideally suited 
for this position. I

A highly respected attorney, with a broad background and experience in environmental issues, Ms. Nelson will bring tenacity and toughness, combined with balance and pragmatism to the EPA. Her outstanding organizational and administrative skills will also serve the Agency well.

Since 1988, Ms. Nelson has served as Chief Deputy Attorney General in Tennessee where she managed as many as 110 attorneys and a budget of close to \$12 million.

Of particular interest to the Committee, her responsibilities included supervising the handling of many environmental law suits. In addition, she played a critical role in the development of an environmental

program to complement the environmental defense and counseling functions of the office.

Ms. Nelson's interest in the environment is not limited to her service in the Attorney General's office. She is chair of the Greenways Commission for Metropolitan Nashville and Davidson County. Ms. Nelson is also former president of the Environmental Action Fund and is a founding member of the

board of directors of the Environmental Law Center -- a non-profit environmental advocacy group serving the Southeast.

Ms. Nelson's nomination has been particularly well received in her home state. "The Nashville Tennessean" stated in a July 25th editorial, and I quote, "EPA could hardly get someone better qualified for the job. Her legal skills and understanding of a wide range of environmental issues should

lend badly needed credibility. Nashville is sorry to lose [Nelson], but it knows that the nation will be getting some top-rated ability."

I would point out too that the president of the Tennessee Association of Business, who has not always agreed with Ms. Nelson, was also effusive in his praise. He stated and I quote, "She'll make a wonderful general counsel and we look forward to working

with her in future joint endeavors. The Clinton administration could not have done better."

Mr. Chairman, let me add my "Amen" to that. I believe that the President has made an inspired choice in the selection of this highly competent and capable public servant. It is my sincerest hope that the Committee will favorably report her nomination. The rest of the nation will then discover what Tennesseans

**have known for a long time: Jean
Nelson is one of the best there is.
Thank you.**

Senator BAUCUS. Thank you very much, Senator. As Chairman of the Budget Committee I know how busy you are. I very much appreciate your taking the time to come and introduce Ms. Nelson. We are very honored to have both you and Senator Mathews here.

Senator SASSER. Thank you, Mr. Chairman. Has Senator Mathews already spoken?

Senator BAUCUS. He has spoken already.

Senator SASSER. Well, Senator Mathews was moving faster than I was.

[Laughter.]

Senator BAUCUS. Thank you again, Senator.

Mr. Laws?

STATEMENT OF ELLIOTT P. LAWS, TO BE ASSISTANT ADMINISTRATOR, OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

Mr. LAWS. With your permission, I would like to have my full statement inserted into the record.

Senator BAUCUS. Without objection.

Mr. LAWS. I would also like to thank Senator Warner for his very kind and generous introduction. I look forward to working with him, as well as the other members of the committee. I would also like to thank Lena for her unprompted correct answer to you—

[Laughter.]

Mr. LAWS. —and we'll probably have to do something for her. I'm sure she's going to hold that over my head for a long time.

Last, I would like to thank Senator Robb for the support that he has provided to me, both before and after my nomination by the President.

I have already met some members of the committee, as well as their staff, and I am looking forward to meeting and working with the rest of them on some of the very important issues that are going to be facing us over the next four years.

When my name started to surface for this position, probably the question I was asked the most was why I would leave the private practice of law for such a difficult job at such a difficult time. This certainly was not a question of full disclosure. I knew what I was in for. I had worked for the Federal Government. I had worked for EPA. I had EPA as a client when I was at the Department of Justice, and for the past several years I've represented private clients against EPA.

After rejecting most of the obvious rationales, most of which centered around questions about my sanity, I decided that I had to return to a basic fact, and that is that public service is a privilege and is extremely important to me, as I think it is to all of the nominees who are before you today. Unfortunately, public service has lost a lot of its lustre, and many of the best and the brightest prefer to enter the private sector rather than work for Government.

It is very easy to criticize us from the outside, as I'm sure all of us in this room realize, but I guess I kind of realized it was time to either put up or shut up. I was trying to locate a quotation that

best describes some of the thoughts that I went through when I was trying to make a decision whether to leave private practice and accept this position, and I settled on one by Rousseau, which says, "As soon as public service ceases to be the chief business of the citizens, and they would rather serve with their money than with their persons, the state is not far from its fall."

I am tremendously honored to be before you today as President Clinton's nominee for Assistant Administrator for Solid Waste and Emergency Response. The chance to work with this Administration, with its strong commitment to environmental protection, made a difficult decision quite easy.

I also look forward to working with Administrator Browner. Her work in Florida, I think, is an example of what I will call the "new environmental realism" where we have to bring economic and environmental interests to work together if we are going to have a chance of addressing the huge environmental problems which are facing the country.

From my experience in the private sector I realized that there is an awful lot that business is willing to do to help the environment, and I think there is also an awful lot that Government is willing to accept. Part of the challenge to EPA is to open those channels of communication, to deadversarialize the process, and to bring all the interests together to solve the environmental problems facing us. I think a good example of that in action is the NACEP Superfund Committee, which as brought industry, environmentalists, the environmental justice community, States, and localities together to try to frame a piece of legislation for the administration to introduce. If this works, I think we have a clear example of a framework for the future.

Another thing the agency must do is focus a bit more on innovative technology. We have to remove the barriers to the development of these processes, the testing of the processes, and the acceptance of the processes.

I also want to bring to the agency the idea that innovative and creative thought is something that we should all be looking forward to. I think too often creative ideas never see the light of day at the agency simply because it is easier to stay the course, or that they "just don't do it that way." I would like to see that never happens in the Office of Solid Waste and Emergency Response.

I would like to briefly outline my priorities.

Clearly, Superfund reauthorization is at the top of the list, but there are others which are going to demand a significant amount of my attention if I am confirmed. The Office of Solid Waste has several regulatory efforts under way which will demand a significant amount of attention: the development of a new hazardous waste identification rule; full implementation of the administration's combustion strategy; implementation of the Basel Convention—all of these are going to demand a lot of our attention over the next 12 to 18 months.

Similarly, we have to continue our work on pollution prevention, waste minimization, and recycling. Efforts in these areas must be increased if we are going to set the stage for real progress and the progress that is necessary for us to significantly and continually

reduce the solid and hazardous waste which is generated in this country.

On Superfund, I see that our efforts have to focus on two fronts. The first, of course, is reauthorization, and I look forward to joining Deputy Administrator Sussman in coordinating the agency's reauthorization effort. The various EPA, intergovernmental, and external committees which have been assisting us in this process will soon be reporting their results; then we will have a lot of work to do, electing among alternatives, drafting legislation, and working closely with the Congress and the environmental stakeholders in seeing that a strong and workable bill is presented and passed.

On the second front of Superfund, we have to remember that we have an ongoing program that has to be operated. I pledge to continue to support some of the initiatives that are already under way, including the Superfund Accelerated Cleanup Model and the Superfund Administrative Improvements. All of these efforts are intended to speed the process, to reduce unfairness, and most importantly, to shorten the time between site identification and ultimate cleanup.

It is important for this Administration to demonstrate the agency's commitment to improve the Superfund program administratively while we are working on statutory changes that are also necessary.

Last, I would like to thank in advance the thousands of headquarters, regional, and laboratory employees of EPA who work hard to implement the programs of the Office of Solid Waste and Emergency Response on a daily basis. These are loyal and dedicated Federal employees whom I have just begun to meet, but who will play the most integral part in the success of these programs.

It is not easy to work at EPA. We receive legal challenges, usually from both ends of the spectrum. We receive criticism of our processes, questioning as to the agency's motives, and attacks on the ultimate decisions of the agency. It happens on virtually every agency action, whether the agency has been perfect in its application or whether it has not.

Too often the honest and good work that is performed day in and day out by the career employee is lost or ignored. I believe we have a strong and dedicated workforce at EPA who will perform even better with the active support of the Clinton appointees. I look forward to working again with this superb group of professionals.

Again, I thank the committee for its time, and I will be pleased to answer any questions.

Senator BAUCUS. Thank you very much, Mr. Laws.

Ms. Goldman?

STATEMENT OF LYNN R. GOLDMAN, TO BE ASSISTANT ADMINISTRATOR, OFFICE OF PREVENTION, PESTICIDES, AND TOXIC SUBSTANCES

Dr. GOLDMAN. With the permission of the Chair, I would like to have my written statement inserted in the record and I will make a brief oral statement.

Senator BAUCUS. It will be included.

Dr. GOLDMAN. Good morning. I am Lynn Goldman. It is an honor for me to appear before this committee.

Today I am seeking your confirmation to serve as Assistant Administrator for Prevention, Pesticides and Toxic Substances at the Environmental Protection Agency.

When Administrator Carol Browner asked me to take this position, she emphasized that the President and she share the commitment to environmental and public health protection and to bringing people together to create workable solutions to the difficult issues that we face as a society. The President has also made it clear that not only a healthy environment, but also a healthy economy, are necessary to guarantee the well-being of all Americans. I share these commitments.

As a pediatrician, I saw a connection between the environment and the health of children, especially for children in poverty, in the most hazardous environments, and with inadequate access to health care. Concern about children and their health and the world they will inherit is much of what brings me here.

If I become Assistant Administrator at the EPA, I will keep paramount the overarching goals of the office. These programs seek not only to reduce risks, but also to prevent risks before they occur. To achieve these goals I will adhere to three principles.

The first principle is to use good science in decisionmaking. I am a scientist and I understand the value of bringing good science to complex environmental policy questions.

The second principle is encouraging responsible management. I have met many of the people with whom I will work at the EPA. The expertise is impressive, and the staff I would lead are dedicated and hard-working. I will work closely with them to ensure that the mission is carried out in the most effective way possible, with an emphasis on making decisions in a prudent but expeditious fashion.

The third principle is to work closely with all involved parties. Among those, and most important, are you and other Members of Congress. In addition, we need to involve concerned interest groups and the general public in our decisions. Too often there have been opposing camps between public interest groups and regulated industries. I hope to be able to bridge that gap.

For the pesticide program, the administration articulated a number of objectives last June that I am very enthusiastic about carrying out. These include insuring the safety of the food supply; reducing the risks from pesticides; encouraging the use and development of safer pest control agents; and other ways that we can work more closely with FDA and USDA to accomplish the purposes of our program.

In addition, I share the Administrator's commitment to address the risks to children, taking into account their unique susceptibility, the diet that children eat, and the multiple sources of children's exposures to pesticides.

As you know the administration hopes to work closely with Congress to bring about needed legislative changes in both FIFRA and FFDCA to bring these purposes about.

For the pollution prevention and toxic substances program, there are a number of priority areas. I am committed to continuing the

work in pollution prevention and the efforts underway to achieve voluntary reductions in risks, and to develop more environmentally friendly technologies. Lead poisoning will also be at the top of my agenda.

The Toxics Release Inventory is a program that has produced benefits by making information readily available to the public, and I will certainly be committed to its maintenance and expansion by adding Federal facilities and new chemicals, as well as looking at the chemicals that are on the inventory that perhaps no longer needed to be there.

In addition, I am interested in improving the Chemicals Testing and Existing Chemicals Programs. I intend to look closely at TSCA and at what administrative and legislative changes are needed so that we can build a toxic chemical program that serves the goals of pollution prevention and the public's right to know.

As you well know, these priorities are critical environmental issues for this Administration and for Congress. If I am confirmed, I will look forward to working cooperatively with you on these issues.

Again, it is a pleasure to be here today, and I will be pleased to answer your questions.

Senator BAUCUS. Thank you very much, Dr. Goldman.

Ms. Nelson?

STATEMENT OF JEAN C. NELSON, TO BE GENERAL COUNSEL

Ms. NELSON. Mr. Chairman, it is an honor to come before this Committee, as with the other Presidential nominees, to potentially be the General Counsel at the Environmental Protection Agency.

I want to speak to you briefly about my background and discuss what I would hope to do in this position, if confirmed.

I come to you with a broad range of experiences and perspectives which Senator Mathews and Senator Sasser have spoken to eloquently. I very much appreciate their being here. I look forward to bringing those experiences and perspectives to the leadership team at EPA and to helping EPA implement the environmental statutes that it is responsible for administering.

As Chief Deputy Attorney General in Tennessee for the last five years, I had the honor of leading a group of approximately 100 very talented lawyers as we dealt with a host of challenging legal and management issues presented in that public arena. Our goals during the period of my chief deputyship were to expand the proactive, initiating nature of our office, and to improve the quality of the legal services through organizational changes and other office initiatives, as well as to enhance the opportunities for professional growth in the office. In the environmental area in particular, we sought to target our efforts more effectively and to set up mechanisms for cooperative activities with our clients and our sister agencies. I think that we were able to provide a better service, and I would hope to use some of those same initiatives in this new position, if confirmed.

I also spent some 13 years in private practice, in a business litigation practice, that emphasized administrative law. In both private and public practice I had the good fortune to work with people

of the absolute highest integrity and abilities, and they helped me develop what I believe to be the most important qualities of a good lawyer: integrity and judgment.

I look forward to using both my legal and my management experiences, as well as my commitment to public service, to serve this Administration. It will be a clear privilege to work with Administrator Browner, as well as this talented agency and its political appointees, to support them in the counselling function as they carry out the critical responsibilities that you and the Congress have given them to protect the human health and the environment.

We in the Office of General Counsel have several jobs to do: to support the agency as it fulfills its statutory duties; to support the principles and priorities of the Administrator as they intersect with the law; and to do all of this with professionalism and fairness.

As the author of many of the laws under which EPA operates, this committee is acutely aware of the challenge EPA has to implement these very complex laws. One of our most important tasks in the Office of General Counsel is to help the decisionmakers in the agency understand the range of legal options that are available to address the policy choices they must make in implementing the Nation's environmental laws.

Administrator Browner is actively pursuing ambitious and exciting priorities for this agency, as you know. They include integrating pollution prevention into all the agency's environmental work; strengthening the resource management of the agency; reaching across program lines for ecosystem protection; building partnerships with State and local government; and incorporating environmental justice into the agency's work. She has said that she wants to be "uncompromising about the goals of environmental protection, but flexible in how we get there".

I hope that the Office of General Counsel will be able to help her in the best way that I think they can, which is to provide her and the agency with sound, creative, and timely legal advice to bring these initiatives to fruition. I am committed to meeting this challenge, if confirmed.

I very much look forward to working with the accomplished and dedicated group of lawyers and staff in the General Counsel's Office to provide just that kind of advice.

I appreciate being able to be here and I look forward to working with you, the committee, and the Congress, as well as the agency, as we all work for the better protection of our human health and the environment.

Thank you.

Senator BAUCUS. Thank you, Ms. Nelson.

I am very impressed with each of your statements and, at least as far as I can tell at this point, with each of the four of you individuals. You are obviously very dedicated, you are obviously very bright, you are obviously very conscientious. We are lucky as Americans to have you working for us as Americans in each of your various capacities.

First I have a question for you, Mr. Laws. Because you are going to be implementing our Nation's waste management laws, I'd just

like your thoughts about recycling. That's why I asked Lena that question.

As you well know, there is a bit of an ethic in this country, "disposable society," "throw-away society," where until fairly recently we tended to generate a lot of waste and dispose of it in landfills and incinerators and whatnot. In the view of many, including myself, we have to do a much better job in this country in changing incentives and priorities so that we minimize the amount of waste that we produce in the first place; and that whatever we do produce is then recycled as much as possible. Where it's not recycled, then we get into questions of incineration and landfill.

As you also know, many communities have attempted to address the recycling component with collection systems—sometimes they are curbside collections, and there are various other schemes that different communities utilize to collect and recycle—basically because Americans want to participate. Most Americans want to help solve some of the waste problems that occur in this country. They do want to separate their trash and to help. But that has caused another problem, that of oversupply. There is an oversupply of recycled materials and just insufficient demand to use the collected materials that are available.

There are various ways to help increase demand. I and others, have introduced legislation to create incentives for more demand, but certainly one component of demand is Federal procurement policy. If Uncle Sam buys more recycled paper, that helps. I'm curious about your reaction to the President's potential Executive Order, as you understand it, with respect to Federal procurement of recycled paper. Currently, Uncle Sam's procurement policy is to buy paper with 50 percent of recoverable fiber; as a practical matter, about 10 percent of that 50 percent is post-consumer waste.

Now, there are reports leaking out of the White House that perhaps the Executive Order will soon eliminate the 50 percent requirement and only address the post-consumer provision, which would be, say, 10 percent. If it is 10 percent, or even if it's 15 percent post-consumer requirement, and the Executive Order is silent with respect to recoverable content, in effect that would mean that a paper company could use 90 percent or 85 percent virgin fiber, not recoverable or recycled material. That would be a significant backslide from current practices.

I'm just curious about what you know of this proposed Executive Order and your thoughts generally about that subject.

Mr. LAWS. Mr. Chairman, unfortunately, I don't know anything about the Executive Order. I do know that the agency is aware of the criticism that has accompanied some of the press reports about alleged backtracking on the part of the Executive Branch in the proposed Executive Order. I will look into it and get back to you.

[The information referred to follows:]

The Executive Order on recycling was announced by President Clinton, in his Earth Speech on April 21, 1993. The Order was signed by the President on October 20, 1993. One of the purposes of the Executive Order is to increase the government's purchase of recycled paper. Currently, less than 5% of the printing and writing paper purchased by the federal government contains recycled materials.

The goal of the Executive Order is that all printing and writing paper purchased by the federal government be recycled paper. In establishing the content standards contained in the Order, the White House sought information on the availability and

price of printing and writing paper in order to maximize the government. The Administration believes that it is important that the government buy paper that contains the highest level of post-consumer recovered materials that can be found at a reasonable price. This will create markets for the paper now being collected in office paper and household recycling programs throughout the country, lead to investment in new recycling ventures, and create needed jobs.

Based on the best information available, the White House determined that the Executive agencies should seek printing and writing paper that contains a minimum postconsumer materials content of no less than 20% beginning December 31, 1994, and increasing to 30% beginning December 31, 1998. As an alternative, to further reduce the burden on landfills, paper made with 50% recovered by-products from the production of goods other than paper and textiles may be purchased, provided that the waste materials would otherwise end up in a landfill.

Mr. LAWS. I think your statement, however, that the use of virgin materials is at the heart of the problem—until we can get business to determine that they are not going to be using virgin materials in their manufacturing processes, that is where the market incentives will be for the recycling market. I think one of the things that Administrator Browner and myself are committed to is to work with business for creating that market. We have the Green Lights Program already in place. My understanding is that the Office of Solid Waste and Emergency Response is on the verge of announcing a similar program in the waste recycling area, and I think it is efforts like those, on which we will certainly be working with you and your staff, that will work to increase the incentives to provide a market for the actual use of these materials.

Senator BAUCUS. With respect to the Executive Order, which I understand is about to be issued, it is very important that the administration does not backslide because many smaller firms and mills have already made the capital investment for more drinking facilities to accommodate a fairly rigid and fairly strict recycled content provision. It would be unfair to those companies who have made the capital investment—they tend to be smaller companies—for the benefit of some of the larger companies who just simply do not want to make the investment. It's really come down to a division of the industry, between the larger paper companies, the very largest on the one hand, and the smaller paper companies on the other. Again, the smaller made the capital investment generally, and the larger did not want to make it. But more importantly, it's just the policy; it seems that the Government ought to set an example. Uncle Sam ought to do what it can to purchase more recycled content.

It is somewhat analogous to the role that McDonalds played. You will recall that McDonalds had these clamshells that were high in CFCs and so forth, and McDonalds just has a company policy that decided that it was going to have more environmentally friendly containers. It wasn't required to; Uncle Sam didn't tell it to; that was company policy. It told its suppliers, "Please redesign your packaging material that you supply to us so that it is more environmentally friendly."

I firmly believe that the United States Government should adopt the same course; that is, not direct or mandate to the paper companies what the requirements and regulations are, how much post-consumer content has to be in the paper or how much has to be recoverable, but just that Uncle Sam says to the world, "We will only purchase paper that has a certain percent of virgin material

or a certain percent of post-consumer content; it's up to you whether you want to supply it or not." I think Uncle Sam consumes about 2 percent of the paper that is manufactured and the other 98 percent is used elsewhere.

In fact, I am going to introduce legislation on this subject. Certainly, I will do so if the administration's Executive Order backslides from the current practice. I may do so anyway, but it is incumbent upon the White House, in my view, not to make this change.

Mr. Perciasepe, a couple of questions about water. The EPA has recently concluded a needs survey addressing the needs of investment for publicly owned treatment facilities and combined sewer overflow facilities in this country, and concluded that the total needs in this country for stormwater and nonpoint pollution—and I guess for publicly owned treatment facilities, as well—is about \$137 billion. As you also know, we are contributing to the State revolving loan funds about \$2 billion annually. I'm just curious as to how much importance you attribute or attach to that EPA needs survey and how urgent the problem is in your view.

Mr. PERCIASEPE. Well, having participated in the needs survey on the other end, actually going out and doing it at the State level, I think we used it in Maryland as a significant tool for planning. Of course, some of the items in the needs survey are more pressing than others; some are more related to water quality improvements and standards achievement than others, and I think that you can break down the needs list in that regard, some of it being more important than the other.

I think it's critical that there be a Federal contribution through the revolving fund to the extent that we develop a revolving fund that can be self-sustaining and provide that marginal Federal investment that drives the national waste water construction program to the most important projects for water pollution control objectives of the Nation. That's where I think our role is. At the Federal level we can not fund all the infrastructure development for wastewater systems in the country; a lot of it is funded by local funds, developers, and others. But I think our part on the margin certainly helps drive that construction program where we need it to go.

So I think the needs survey does provide a good framework for us to set priorities in, but I think priorities have to come after just the sheer order of magnitude of needs.

Senator BAUCUS. How are we going to address the shortfall? There's a big difference between \$137 billion and \$2 billion.

Mr. PERCIASEPE. I guess the easy answer is that one has to have a longer perspective than now to achieve those needs. And clearly, it is going to require setting priorities. The priority list and targeting the funding and using the subsidized interest rates that we can do in the revolving fund is the way to drive the entire mass of construction program that occurs each year to those things that are most important.

So we're not going to be able to do all \$137 billion next year, but we can certainly set the right priorities and move ahead.

Senator BAUCUS. I was also very impressed with your comments about working with the committee, and with the entire Congress,

for that matter, with respect to reauthorizing the Clean Water Act. You hit upon the main points that we are attempting to address. It sounds very much like we're very much in sync in trying to solve these problems.

Mr. PERCIASEPE. I think another aspect of that is the fact that by reauthorizing the act, we can put some certainty into the funding formula so that the clean water programs can adjust out there at the State and local level.

Senator BAUCUS. Right.

There is another question, that of the Safe Drinking Water Act; not only funding—as you know, this committee is suggesting a revolving loan fund for safe drinking water, as well. We are a little concerned, frankly, that OMB might want to rob Peter to pay Paul, take some money out of this State revolving loan fund for treatment facilities and use some of that for safe drinking water facilities. That's a position that I very much oppose. It makes no sense.

Your thoughts on funding for safe drinking water facilities?

Mr. PERCIASEPE. I think we need to do both. Again, my experience in the State of Maryland has shown me that the States and the local governments just can't muster—even when you maximize the amount of other Federal sources that are available through the Rural Development Administration, Community Development Block Grants, or other sources—can't muster enough to get over the hump on some of these problems, particularly in the small communities.

I will agree with you that it's going to be a hard decision that the administration and the Congress will have to work on together in the context of spending limits and the context of the need. I think we need to do both of those, though, for sure.

Senator BAUCUS. Your thoughts about the problems that smaller communities face with respect to the Safe Drinking Water Act? It gets to the issue of unfunded mandates. It gets to the question of universal application of requirements which can be more easily met in larger communities due to economy of scale, etc. But smaller communities with a very small number of hook-ups have a very difficult time. How do we resolve that one?

Mr. PERCIASEPE. When I used to go to the Maryland Municipal League's meetings every year, they used to introduce me as "Mr. Mandate."

But I think there's a process that you have to go through with the small communities. I've had some success in doing this in the past. First of all, you have to look at what the water supply source. Can the Small Systems be hooked up to a larger one? For instance, in the Allegheny County area of Maryland, the city of Frostburg has a large dam; it has some supply capacity. There are smaller communities to the south that can connect to the Frostburg System. That creates the economy of scale that you're talking about. You have to look at this restructuring, look at the possible different sources that may reduce the treatment costs. That has to be done first. The second thing, you have to look at is what the community can afford to do and what they can achieve within their existing supply.

Then I think some of the things that we've been talking about with Congress should be pursued. The administration has proposed

some things that we ought to consider in the Safe Drinking Water Act reauthorization, looking at developing a small system best available technology, where you develop a technology approach after you go through a process of looking for other ways to solve the problem. I think that has a lot of advantages. It provides some flexibility to States, and I think it is also a shot in the arm to another small sector of our environmental business development in the country.

Senator BAUCUS. What's your reaction to allowing States to write down interest and/or principal on their loan, so that the user charge does not exceed .5 percent of median household income? Does that kind of approach make sense to you?

Mr. PERCIASEPE. I think that kind of approach does make sense. We tried to do that in Maryland to some extent. I can't tell you the exact percentage that is the right percentage, but it also has to be coupled with a process of looking at those other approaches to providing safe drinking water problem.

I think what we have to have as the underlying principle is public health. We have to make sure that we're not compromising public health, while at the same time providing some funding and some flexibility. I think paramount to all of the efforts we would bring to bear and talk about in the Safe Drinking Water Act Reauthorization, we have to make sure that what comes out maintains the public confidence in being able to pick up the glass and drink it.

Senator BAUCUS. OK.

Ms. Nelson, one of the biggest problems we have here is EPA missing its deadlines. I think, frankly, it's one of the biggest problems the country has.

What is the solution here? What are you going to tell either Mr. Perciasepe or Mr. Laws or Dr. Goldman or any of the others who come to you and say, "We're not going to make our deadline here; what's your advice? Do we issue it or do we not issue it?" How are you going to resolve it?

Ms. NELSON. I think that you have obviously hit on something that has got to be one of the agency's first and foremost things that it looks to try to do.

Senator BAUCUS. And as you know, several have commented that EPA is essentially in receivership, that so many of its deadlines are mandated by the courts because EPA on its own had not met the deadlines with its rules and regulations and guidelines and so forth. It's a major problem.

Ms. NELSON. It is a significant problem.

Senator BAUCUS. And it's a source of frustration for this committee.

Ms. NELSON. I'm sure that is true, and the agency is aware of that. As you well know, the agency often gets into rulemaking and will find that the situation is more complex than anticipated, or developing the scientific base for a particular rule turns out to be more difficult than they had anticipated.

Of course, one of the important roles that the Office of General Counsel can play is to be sure, up front as much as possible, to get the legal options for the policymakers set out as clearly as possible so that we play an affirmative role in getting things off to a good

start. That's going to be one of the roles that I am going to work hard with our lawyers to do.

I think there needs to be an ongoing dialog with your committee as new laws are developed so that we try to have as realistic deadlines on the front end as we possibly can. Dealing with our deadlines is an effort all of us consider to be very important, as know Administrator Browner does, from my discussions with her.

Senator BAUCUS. I understand that on an informal basis you have spent some time—not a lot of time—wandering the halls of EPA, and have spent some time with Administrator Browner. Is that correct?

Ms. NELSON. That's right. I've been there for about a month and a half as a consultant.

Senator BAUCUS. There are some that think there's just a culture at EPA which is the source of the problem here; that is, there's a culture there that everybody wants to do a good job and everybody thinks that his or her views are very important, but everyone has to sign off on everything, that there are more groups and boxes and departments and people that a proposed rule or regulation has to go through than you can shake a stick at. And once somebody has made a recommendation for a change to a provision here or there, then it has to go back to the last person again to get him or her to sign off on it again. It's a revolving, perpetual motion which is part of the problem.

Based on two months' observation, what do you think? Is that part of the problem?

Ms. NELSON. I do want to say on the front end that from my somewhat limited observations at this point, there is a very healthy inclusiveness and participation that goes on to try to get to the best product possible. But I also know that there is an ongoing work on ways to try to streamline the rulemaking process. I look forward to being able to get involved with that, to see which solutions we can really get on board and get going as soon as possible.

Senator BAUCUS. I have asked Administrator Browner these same questions, and she is determined to solve them so that for all intents and purposes the public can count on EPA meeting its deadlines.

I also asked her to give this committee a date by which she will have in process the changes necessary to reasonably assure us that will happen, namely, that deadlines will be met for rules and regulations.

I ask you to go back and meet with her and with other relevant people in the agency and in the White House to help make sure that happens—

Ms. NELSON. I certainly will.

Senator BAUCUS. —because this is going to be a matter that this committee will be watching very closely.

Dr. Goldman, what do you think about the Delaney Clause?

[Laughter.]

Senator BAUCUS. The Administration, as you know, is suggesting some changes to the Delaney Clause, based more on risk assessment priorities. What do you think?

Dr. GOLDMAN. Well, I have given this a lot of thought. I do agree with the position of Administrator Browner, that our decisions

about pesticides, as in other areas of environmental regulation, should be based on risk. I think that the Delaney Clause is an outdated law that served its purpose 30 years ago, and that we need to move to a law where we use a "reasonable certainty of no harm" to assess all carcinogenic risks for all pesticide uses; not just food uses, not just processed foods where the pesticide concentrates.

We need to be able to address all risks; not just cancer, but also the other health risks that we're concerned about.

Senator BAUCUS. Such as?

Dr. GOLDMAN. Such as neurotoxicity, reproductive toxicity, and looking at some of the areas that the National Academy of Science has recommended that we look at for children in terms of immunotoxicity and toxicity to the endocrine system.

Senator BAUCUS. How do we know what the risks are? Do we have sufficient data? Are we gathering data in the right areas, well enough to know how to assess risks and set priorities? Because it's fairly clear to me that in many areas we don't have the requisite data; therefore, necessarily, the conclusion will be erroneous.

Dr. GOLDMAN. I think that's a very reasonable concern. I think that the nature of the science is that we will never know everything about anything, and in practice and in EPA and really in public health in general we have to make the decisions based on the information that we do have. We have to apply the best science that we have at a given point in time to those decisionmaking processes. Then later, if new science comes that causes us to look at new aspects of the problem, those decisions may change.

So I think that we always must be willing to make decisions, even in the face of a certain amount of uncertainty, and at the same time we have to be willing to incorporate new science as it comes along into that process.

Senator BAUCUS. Do you have a sense where we have better data compared to other areas? Where is the data the best and where is it the weakest?

Dr. GOLDMAN. I think we have the best data in the area of cancer risk, and to some extent in the area of reproductive hazards and neurotoxicity, where we actually have test rules that the agency promulgates and that companies have had to put into place for their products.

I think for certain other areas—for example, for endocrinological problems; there have been a lot of concerns about breast cancer, for example, and whether that could be somehow connected to exposure to environmental chemicals—there we know very little. We're on the cutting edge of the science. We don't have much information, but those are areas in which there needs to be more research and effort into understanding those problems better.

Senator BAUCUS. What about microbial bodies, the Milwaukee problem with safe drinking water? Crypto-sporidium, for example?

Dr. GOLDMAN. Crypto-sporidium, yes.

Senator BAUCUS. How did we miss that one? How did Milwaukee miss that one?

Dr. GOLDMAN. I think those are very important problems. I think there are public health reasons to look not only at those risks, but just as with chemicals, the entire process from the source to how those microbes might move from the source into the drinking

water, to how they might be treated. For those kinds of problems, obviously, my colleague, Bob Perciasepe would have major responsibility for looking at the entire pathway, from the source to humans, to prevent those kinds of exposures, just as with pesticides and chemicals.

Senator BAUCUS. Do you have any thoughts on that, Mr. Perciasepe, on risk assessment as it applies to standards that the EPA or States or cities set, say, for safe drinking water?

Mr. PERCIASEPE. Like I said earlier, I think we can't take some of these things for granted, and the Milwaukee situation shows us that we have to look at a full range of factors. I mentioned earlier looking at full ecosystems, for instance, or whole systems, rather than concentrating on one part is important. If the city of Milwaukee or any city in the United States is concentrating on one part of its process, either due to something we're driving or something that they're driving themselves we lose track of the full picture, I think there's always a higher risk. That's sort of a macro-risk as opposed to the science that Lynn was just talking about.

That's one of the things that I know the committee is very interested in, moving these more holistic approaches to solving problems into our culture at EPA so that we're not all in these little areas, just looking at one problem, but seeing how lead connects to water, how that connects to lead problems in children in urban areas, and whether that's a base upon which the other exposures are built, and back and forth. These are things that I think we are all going to be dedicated to trying to make those necessary links with.

Senator BAUCUS. Dr. Goldman, what role should risk assessment play, do you believe, in setting priorities?

Dr. GOLDMAN. I think that risk assessment plays an important role in the setting of priorities. I like to think of risk assessment as being a tool for taking data from a number of scientific studies and attempting to put those data together in a form where those data are usable by nonscientists, by you, by risk managers, in order to have a sense of how hazardous particular exposures are, or how safe is safe.

It is also an evolving science. Risk assessment shouldn't be looked at as a static thing.

Senator BAUCUS. But have we evolved enough? Do you place a lot of confidence in it?

Dr. GOLDMAN. I think that there is work that needs to be done to continually improve how we do risk assessment.

Senator BAUCUS. But just on a 1 to 10 scale of confidence, what degree do you ascribe to this tool, compared to other tools? I'm just trying to get a sense of how much you rely on risk assessment compared to other tools and mechanisms and so forth.

Dr. GOLDMAN. I would say that I never use that tool solely to the exclusion of other ways of looking at information.

Senator BAUCUS. I knew that would be your answer.

[Laughter.]

Senator BAUCUS. But that wasn't the question I asked. I don't mean to pin you down, but just your general sense of how much. Not solely? Fifty percent, generally? Seventy-five percent? Ten percent?

Dr. GOLDMAN. That's a very difficult way to answer the question. I can try a different approach to that question.

I think that when people have looked at the results of risk assessments, their risk assessment tool has been applied to animal data; and then what has been predicted has been compared with what happens in human epidemiologic studies. And as I am sure the Senator is aware, there are few cases where we actually have good human epidemiologic evidence to turn to, to be able to see what the risk to humans really is.

But in those few cases, the results have been remarkably consistent. We have little evidence——

Senator BAUCUS. Consistent with animals?

Dr. GOLDMAN. That's right. We have little evidence that the tool gives us wrong answers most of the time. On the other hand we have individual cases where certain species of animals are susceptible to chemicals in ways that humans are not, and other cases where humans are affected by exposures where animals are not. There are no animal models for some of the diseases that we know about.

So that is why we cannot solely rely on risk assessment.

Senator BAUCUS. I appreciate that.

Now, in addition to setting priorities, would your answer be the same with respect to using risk assessment in developing regulations or setting levels of cleanup?

Let me ask Mr. Laws that question.

Dr. GOLDMAN. Well, I would say that it is useful for providing guidance for setting regulations. Certainly in the pesticide program, risk assessment is very heavily relied upon for determining tolerances in food, how much of the pesticide residue in a food will be tolerated.

I really cannot think of any other tool that is available to us to do that job, other than going back to something like a Delaney-type thing where you could set the level at zero, which then becomes very impractical.

Senator BAUCUS. Right.

This is an opportunity, with the four of you together here. I'd like your thoughts on how we can better integrate the various disciplines at EPA. We've sort of touched upon it already this morning. I would like more precise suggestions and ideas that you have on how to accomplish that. It's clear that the command and control approach has been very helpful in the past, but we are somewhat reaching diminishing returns. I think we have to move a bit toward market-based incentives, in addition to command and control, but we also have to do a much better job just integrating the various air and water and waste statutes that we have so that a company, a facility, an industry can more efficiently deal with the problems that they, too, basically want to solve.

Your thoughts, just generally. I know that you've given a lot of thought to this, a lot of you have, because you have worked in various capacities in the States and so forth.

I'll begin with you, Mr. Perciasepe.

Mr. PERCIASEPE. Thank you.

Yes, we have already thought about this. In the short time that all of us have been together, we've actually talked about this very same issue on several occasions.

I think that earlier you mentioned a culture at EPA. There's some of that; there's some of the statutes that we are working on that drive us to certain areas.

I think that the way to get it to be better is, in large part, going to be resting on our shoulders, as we have to lead by example as the political leadership that you pointed out earlier in your comments, to the rest of the agency, to the extent that we build the relationships and we build the work ethic between us and our other colleagues that will be coming before you. I think that creates a drive for that kind of collaborative and cross-media culture. And I think we are all committed to trying to push that ahead.

The other thing is that I think Administrator Browner and the President have selected a group of people who all have good, varied backgrounds, which I think is going to stand well for our abilities to communicate with each other. So I am looking at that kind of an approach, of setting an example and pulling people together and working together. I think that we can do something on that.

Senator BAUCUS. Mr. Laws?

Mr. LAWS. I would agree with Bob on all of the points.

One of the things that we, as the political leadership, have to do is set in motion changes from which we will not see immediate results. We have to be looking further down the line at the future of the agency and make sure that we are instilling in the career employees an understanding that the changes we are trying to start probably won't happen immediately, but they are changes that the country needs to see and realize.

I think one of the strongest steps in that direction is the impending Office of Enforcement reorganization. All of the various structures that I have seen all have a multi-media component in them, which is going to force the agency, when they have a media-specific enforcement problem, to look and see whether there is anything else we need to be looking for.

It's going to take a long time. There have been a lot of starts and stops over the year as the agency has looked at one multi-media project and then another, and they really haven't taken hold. But I think that everyone——

Senator BAUCUS. Can you think of a better name than multi-media?

[Laughter.]

Mr. LAWS. Integrated. I'll pass that on, definitely, because I think that's what they're thinking of calling it.

Senator BAUCUS. I agree. I've been trying to think of a better term myself and have been unable to come up with one.

Mr. LAWS. But I think that Bob is right. The people who are before you, the ones who are already there at the agency, and the ones who will follow us are all committed to seeing that we change the way we are looking at environmental problems, because we can't keep going one statute at a time. We'll keep bumping into ourselves. We're certainly not helping industry or helping the community by continuing that.

Senator BAUCUS. Dr. Goldman?

Dr. GOLDMAN. I really share their commitment on this kind of close working together and really look forward to it.

When I worked for the State of California, my first job as a medical epidemiologist involved responding to health concerns by people who lived near hazardous waste sites. We would convene all of the individuals from various levels of government who were involved in working on those sites; sometimes there would be 20 or 30 or 40 people, each of whom focused on a small part of what was going on with the site. It often seemed that the aspect of the site that was of the most concern to the community that lived near the site wasn't covered by any of those people, that there would be a tremendous amount of finger-pointing or turf-shifting; but when we got everybody together and said, "This is the problem, this is what the community is concerned about; how are we going to solve this problem?" those groups of people could, among themselves, find ways to use the statutes and the authorities that they had to address the real problem.

And I think that's what we need to do at EPA. We really need to work together across program lines to address the real problems that people are concerned about and find creative approaches to do that. We can only do that if we work together.

Senator BAUCUS. Are you aware of any efforts to do so? I asked the question because I know that some of the more successful manufacturing companies in the world—it's a Japanese model—various levels, simultaneously, cross-culture, sort of working together, so that the marketing department at many, many levels is working with the design, with the manufacturing, with the various different categories of the company. You can't just coordinate only at the top or only at the bottom; it has to be at the various levels simultaneously.

Are you aware of any of that going on at EPA now?

Dr. GOLDMAN. Actually, I am. There has been a program of what they call Total Quality Management.

Senator BAUCUS. That's the concept.

Dr. GOLDMAN. I'd also like to find another term for it than TQM. But that is a kind of a bottom-up approach. Anyway, what they've done in Japanese corporations I think was first thought of by an American named Deming, who actually started all of it. That is the kind of thing that I think needs to continue, but needs to be done across offices.

I am aware that in the Office of Prevention, Pesticides and Toxic Substances this has been very useful for improving the product registration programs, which in a sense are kind of like an assembly line operation and involve lots of people.

But I do think that this starts from the top as well, that the political leadership needs to demonstrate the commitment and, as you said in your opening speech, not compete with each other's offices but rather cooperate to produce the results that we all want.

Senator BAUCUS. Now, do the Assistant Administrators all get together and go over these things on a periodic basis?

Mr. PERCIASEPE. Weekly.

Senator BAUCUS. Weekly? What day of the week?

[Laughter.]

Mr. PERCIASEPE. We're currently debating that.

[Laughter.]

Mr. LAWS. It's currently Mondays, but I'm not sure we're going to continue with that.

Senator BAUCUS. Mondays? OK, I'll count on Mondays, then.

[Laughter.]

Senator BAUCUS. Ms. Nelson?

Ms. NELSON. I certainly want to echo that I think we're going to learn a lot from the enforcement reorganization as it tries to address some of the issues that you mentioned.

Two other things, though that I would add. It seems to me that the attempt to focus on ecosystems—putting an emphasis on a larger, by nature, cross-media set of problems—can also help drive that kind of effort to be sure that we do look at things in a more integrated fashion.

On where the lawyers from the General Counsel's office can contribute, I have been very impressed by the breadth of knowledge that the lawyers in the General Counsel's office have. Many of them have worked with several of the different statutes and worked in several of the different media program areas, so they are able to understand the possibilities for either making more consistent our regulations and approaches.

Senator BAUCUS. A lot of what we're talking about here potentially creates other problems; that is, resources. You need the resources to do this. You need good data. You need a monitor. You have to know what you're monitoring. And that's typical, particularly in this time of tight budget deficits. It also tends to run counter to an earlier problem we've been addressing, namely, getting these regulations and rules out on time.

Nothing is easy, but it's worth doing. But I just urge you—I know you will anyway—to consider all that, because we have to get these regulations and guidelines and rules out on time. We also have to move very aggressively to solve this problem of bifurcation and separation among different statutes and different departments so that it is much better integrated and so that it is serving the people a lot better than we have in the past.

Three of you have State backgrounds; maybe you do too, Mr. Laws. Based upon your experience in working with the State agencies, what changes are you going to try to make at EPA? What can you tell this committee, based upon your State experiences, that you think is quite pertinent? Just very briefly.

Mr. PERCIASEPE. I guess I'll start with a very simple statement, and that is—and this is going to require Congress to think about this as well—I think that to some extent we have to risk a little more partnership with the States on some of our programs. There are forces out there that want us to maintain it the way it is, and the system can collapse if there is too much maintained at the Federal level. In my programs alone, the National Pollution Discharge Elimination System has been delegated to over 30 States, as well as primacy for drinking water. If all the States rise in revolt and say, "We're just not going to do this any more," these programs will not function. Some of that is going to require us to take more risk in our ability to manage and give them more authority and more responsibility, and have a different kind of oversight and measurement of success.

So it is going to require sanctioning from Congress and some understanding from the different interest groups that want it to be one way or the other, but I'm going to try to work on that with all of you.

Senator BAUCUS. Well, I agree with that. The obvious question is that when you delegate more, how do you also create the trust so that the delegation is warranted?

Mr. PERCIASEPE. That's the challenge: the oversight part, how much oversight, what things are you going to measure to determine that it's being successful? Those are all part and parcel to that increased partnership. That's what we have to work on, the proper measures.

Senator BAUCUS. Mr. Laws?

Mr. LAWS. We have to stop duplicating a lot of the efforts that are going on. Where we have delegated State programs, we can't let the State do something and then they'll send it up to EPA and have us perform exactly the same functions.

I think it gets a little bit to what Bob was saying. We have to perhaps change the types of oversight that we perform, change at least to the degree that we have the confidence that the programs are being performed and operated satisfactorily, because that is always going to be the agency's responsibility to satisfy the Congress that the Federal laws are being complied with. But I'm not sure that we need to have such a system where every T that is crossed by the State has to be re-crossed later by the EPA.

Senator BAUCUS. Thank you.

Dr. Goldman?

Dr. GOLDMAN. I share a lot of the sentiments of the first two. When I worked for the State there were a couple of things that I felt were real problems. One was that States have evolved over the past 20 years from a time when they didn't have the expertise, to a time now where there is a lot of expertise in the States. I think the EPA also needs to evolve to recognize that and take advantage of that expertise out there.

The second issue is that States really need to be involved up front in the decisionmaking by the agency. I was often brought in to give input, but sometimes that was at a stage where already the agency had gone down a certain road so far that there was no way to turn back and consider an alternative course of action.

So I think involving the States as early as possible and really utilizing their expertise will be what I will want to do.

Senator BAUCUS. Ms. Nelson?

Ms. NELSON. There's nothing like sitting in the fourth spot, the value of the ditto.

Senator BAUCUS. You're our cleanup hitter.

Ms. NELSON. I would simply add that one of the things I hope to do is try to set up more of a partnership in terms of communicating with some clarity, and as early as possible, particularly with General Counsels of State agencies and with Attorney Generals' offices. I think that we waste a lot of time and there is a lot of guessing that has to go on out in the States about what we really mean. We want to give them flexibility, and yet I really believe there is some communication that could really help their jobs, and ultimately the overall job that we all have, of putting together all the

resources—State, local, and Federal—to come up with a good program.

I also want to say that—certainly for Tennessee—the ability to have fees to support their programs has been a very effective way of helping the State.

Senator BAUCUS. Before I adjourn the hearing, if you have anything to say that you think hasn't been said, any point that you want to make? Has anybody said anything that you think it would be appropriate to respond to? Here's your chance before you begin your new jobs.

[Laughter.]

[No response.]

Senator BAUCUS. Well, I think this has been very helpful and instructive. I will be looking forward to the results of the weekly Monday meetings.

[Laughter.]

Senator BAUCUS. This committee is going to aggressively pursue its oversight responsibilities. That will be a change from the past. I just urge you to continue doing what it sounds like you are going to be doing, trusting, empowering, and so forth. It will be the intent of this committee not to hamstring you, not to micromanage; but in return for that, we expect that you will be doing your job. And for us to determine whether or not you are doing your job, we will be having oversight hearings with some frequency and asking these same questions in attempting to determine how far along you are in reaching the goals that you outlined this morning—basically, just following up, just seeing how well we're all doing together.

Thank you very much. I wish you the best of luck. I think our country is very lucky to have four people of such caliber and dedication as the four of you.

[Applause.]

Senator BAUCUS. I think you're going to make your families very proud of you.

The record will be open until 5:00 o'clock for members of the committee to submit questions, which I would like you to answer, assuming that they submit the questions.

The hearing is adjourned.

[Whereupon, at 11:25 a.m., the committee adjourned, to reconvene at the call of the Chair.]

[Statements submitted for the record, and responses to additional questions and a Committee questionnaire follow:]

STATEMENT BY
ROBERT PERCIASEPE
ASSISTANT ADMINISTRATOR-DESIGNATE
OFFICE OF WATER
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE
COMMITTEE ON ENVIRONMENTAL AND PUBLIC WORKS
UNITED STATES SENATE
SEPTEMBER 29, 1993

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE. IT IS AN HONOR TO BE HERE TODAY AS THE PRESIDENT'S NOMINEE FOR ASSISTANT ADMINISTRATOR FOR WATER AT THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY.

I AM ALSO ESPECIALLY EXCITED THAT I HAVE BEEN ASKED TO SERVE BY ADMINISTRATOR CAROL BROWNER, WHO IS WORKING TO MOVE OUR COUNTRY TO A NEW LEVEL OF ENVIRONMENTAL AWARENESS AND ACTION.

I AM LOOKING FORWARD TO THIS OPPORTUNITY WITH A GREAT DEAL OF RESOLVE TO WORK HARD AND TO WORK CLOSELY WITH THE CONGRESS.

THROUGHOUT MY CAREER I HAVE PURSUED PUBLIC SERVICE WITH A PASSION. I BELIEVE THAT WE HAVE A RESPONSIBILITY TO BE INCLUSIVE IN WORKING WITH ALL INTERESTED PARTIES. COMMUNICATION BETWEEN ENVIRONMENTAL GROUPS, BUSINESSES, AS WELL AS STATE AND LOCAL GOVERNMENTS IS ESSENTIAL TO ENVIRONMENTAL POLICY DEVELOPMENT. IN A SIMILAR FASHION WE MUST BE INCLUSIVE IN WHO THE BENEFITS OF ENVIRONMENTAL IMPROVEMENT AND PRESERVATION ACCRUE TO.

I HAVE THE OPPORTUNITY TO BRING BOTH LOCAL AND STATE GOVERNMENT PERSPECTIVES TO THE OFFICE OF WATER THAT I BELIEVE WILL SERVE THE OFFICE WELL. FOR THE LAST 17 YEARS I HAVE WORKED AT THE MUNICIPAL LEVEL IN BALTIMORE AND AT THE STATE LEVEL IN MARYLAND.

AT BALTIMORE MY WORK IN THE CITY PLANNING DEPARTMENT FOCUSED ON INFRASTRUCTURE AND ENVIRONMENTAL ISSUES. AT MARYLAND I HAVE SPENT THE LAST SIX YEARS WITH THE MARYLAND DEPARTMENT OF THE ENVIRONMENT, SERVING THE LAST THREE YEARS AS SECRETARY.

THESE EXPERIENCES WILL BE OF GREAT HELP AS WE FASHION OUR FEDERAL, STATE, AND LOCAL PARTNERSHIPS DOWN THE ROAD.

IN MARYLAND WE MADE SIGNIFICANT PROGRESS ON THE CHESAPEAKE BAY OVER THE LAST SIX YEARS AND I THINK THAT KIND OF STATE AND FEDERAL TEAM WORK IS ESSENTIAL TO THE FUTURE OF OUR WATER PROGRAMS.

LOOKING AT AN ENTIRE ECOSYSTEM AND DEVELOPING INTEGRATED MANAGEMENT STRATEGIES THAT GO BEYOND OUR

TRADITIONAL APPROACHES ARE A HALLMARK OF THE SUCCESSFUL BAY PROGRAM AND I AM PROUD TO HAVE BEEN A PART OF THAT WORK. I EXPECT THAT EXPERIENCE WILL INFLUENCE MY WORK AT EPA IF I AM CONFIRMED AS THE ASSISTANT ADMINISTRATOR FOR WATER.

THE STATE REVOLVING FUND IN MARYLAND IS ANOTHER SUCCESS STORY. THIS LEVERAGED PROGRAM HAS NOW PROVIDED OVER \$200,000,000 IN LOANS, MANY OF THEM TO SMALL COMMUNITIES. WE DEVELOPED A LOAN POOL THAT ALLOWED SMALL UNRATED GOVERNMENTS TO PARTICIPATE ALONG WITH LARGER COMMUNITIES. WE ALSO SET UP A SMALL STATE GRANT PROGRAM FOR SUPPLEMENTAL ASSISTANCE. IN ADDITION, WE DEVELOPED A RURAL WATER SUPPLY PROGRAM SPECIFICALLY TARGETED TO SMALL COMMUNITIES IN MARYLAND. THIS STATE FUND WAS NOT ENOUGH, BY ITSELF, TO MAKE PROGRESS AT PROVIDING SAFE DRINKING WATER TO OUR CITIZENS. WE WORKED HARD TO INTEGRATE IT WITH THE FARMER'S HOME ADMINISTRATION, COMMUNITY DEVELOPMENT BLOCK GRANTS, AND THE APPALACHIAN REGIONAL COMMISSION. WHILE THESE

EFFORTS HELPED, MORE PROGRESS IS NEEDED TO PROVIDE SAFE DRINKING WATER INFRASTRUCTURE ALONG THE LINES OF THE PROGRAM PRESENTED IN THE PRESIDENT'S "VISION OF CHANGE FOR AMERICA".

MY INVOLVEMENT IN ALL OF THE ENVIRONMENTAL PROGRAMS IN MARYLAND WILL ALSO HELP AS WE DEVELOP NEW MULTI-MEDIA SOLUTIONS AND ENFORCEMENT ACTIONS. WHETHER IT IS LINKING AIR DEPOSITION TO WATER QUALITY, DEVELOPING MORE COMPREHENSIVE GROUND WATER STRATEGIES, OR ADDRESSING ENVIRONMENTAL JUSTICE ISSUES THAT CUT ACROSS THE MEDIA, MY BACKGROUND WILL HELP.

WHILE MANAGING A LARGE STATE AGENCY, DEVELOPING QUALITY MANAGEMENT AND EMPLOYEE EMPOWERMENT PROGRAMS WERE HIGH PRIORITIES FOR ME AND MY DEPARTMENT. MAINTAINING A QUALITY, AND MOTIVATES STAFF WITH HIGH MORALE IS CRITICALLY IMPORTANT.

I WILL CONTINUE THIS FOCUS AT EPA. IMPROVED PUBLIC PARTICIPATION, PUBLIC ACCESS TO INFORMATION, AND PUBLIC

INVOLVEMENT IN LONG TERM ENVIRONMENTAL PROGRAMS WERE SIGNIFICANT GOALS OF OUR PROGRAMS IN MARYLAND AND WILL BE A CONTINUING GOAL FOR ME AT EPA.

IF CONFIRMED I HAVE SEVERAL PROGRAM AREAS THAT I WOULD LIKE TO CONCENTRATE ON.

THE CLEAN WATER ACT REAUTHORIZATION PROPOSED BY THIS COMMITTEE IS A MAJOR OPPORTUNITY TO RE-COMMIT THE COUNTRY ON THE COURSE FOR CLEAN WATER. CREATING A STABLE FUNDING PICTURE FOR OUR STATE AND MUNICIPAL PARTNERS, IMPROVING THE OVERALL ENFORCEMENT PROGRAM, MOVING AHEAD ON NON-POINT SOURCES AND POLLUTED RUNOFF, IMPROVING OUR WETLANDS PROTECTION PROGRAM AND INVIGORATING A WATERSHED APPROACH TO WATER QUALITY MANAGEMENT ARE MUTUALLY SHARED GOALS.

I WANT TO WORK WITH THE COMMITTEE, THE REST OF CONGRESS, BUSINESS, STATES, ENVIRONMENTALISTS, UTILITIES, AND CITIES TO MAKE IT HAPPEN.

THE SAFE DRINKING WATER ACT ALSO NEEDS OUR ATTENTION.

WE MUST RATIONALIZE OUR PROCESSES AND PROVIDE THE HELP STATES AND LOCAL GOVERNMENTS NEED THROUGH A DRINKING WATER REVOLVING FUND AND FEES PROGRAM. WE ALSO NEED TO STRENGTHEN ENFORCEMENT OF DRINKING WATER STANDARDS AND PROVIDE A CLEAR MESSAGE THAT WE NEED TO PROTECT THE SOURCES OF OUR DRINKING WATER.

A RECENT REPORT BY THE NATURAL RESOURCES DEFENSE COUNCIL HIGHLIGHTS SOME OF THE ISSUES WE NEED TO ADDRESS TOGETHER. CLEAN AND SAFE DRINKING WATER IS SOMETHING THAT WE SHOULD NEVER TAKE FOR GRANTED. IT TAKES RESOURCES, PLANNING, OVERSIGHT AND REGULATIONS, AND SOLID PUBLIC COMMITMENT TO KEEP IT CLEAN AND SAFE. I AM COMMITTED TO WORKING WITH YOU TO ASSURE THAT FUTURE.

THE RELATIONSHIP BETWEEN THE EPA, STATES, AND LOCAL GOVERNMENTS IS CENTRAL TO OUR NATIONAL ABILITY TO MOVE AHEAD ON ENVIRONMENTAL PROTECTION. I WANT TO IMPROVE THESE RELATIONSHIPS AND BETTER DEFINE OUR ROLES TO THE MAXIMUM BENEFIT OF OUR PROGRAMS. THE WORKING

RELATIONSHIPS WITH OUR STATE PARTNERS MUST BE BUILT ON TRUST AND WE MUST BE WILLING TO WORK TOGETHER TO SOLVE PROBLEMS.

THE PROCESS OF RULEMAKING WILL ALSO NEED ATTENTION. WE NEED TO FIND WAYS TO IMPROVE THE PROCESS, MAKE IT MORE SENSITIVE TO STATUTORY REQUIREMENTS, INCLUDE MORE STAKEHOLDERS, AND GET THE DESIRED RESULTS. THIS WILL REQUIRE US TO WORK TOGETHER ON REALISTIC SCHEDULES AND I WANT TO WORK WITH YOU ON THAT.

AS I MENTIONED BEFORE, CROSS MEDIA LINKAGES ARE IMPORTANT AND I BELIEVE MY BACKGROUND AND EXPERIENCE WILL HELP PROVIDE A MULTI-MEDIA PERSPECTIVE FOR THE OFFICE OF WATER. IN ADDITION, WE MUST CONSIDER OUR MISSION MORE BROADLY, WE MUST FIND WAYS TO INTEGRATE PROGRAMS IN A CONTEXT THAT PROTECTS WHOLE ECOSYSTEMS.

WE HAVE AN OPPORTUNITY DURING THE CLEAN WATER ACT AND THE SAFE DRINKING WATER ACT REAUTHORIZATIONS TO BUILD ECOSYSTEM PROTECTION CONCEPTS INTO OUR PROGRAMS.

WE CAN BUILD THEM INTO WATERSHED MANAGEMENT AND SOURCE PROTECTION PROGRAMS.

I AM ANXIOUS TO GET STARTED WITH THESE CHALLENGES. THE CHANCE TO WORK WITH ADMINISTRATOR BROWNER AND THE CONGRESS ON THESE VITAL ISSUES IS A ONCE-IN-A-LIFE TIME OPPORTUNITY. WE NEED TO MOVE OUR ENVIRONMENTAL PROGRAMS TO NEW HEIGHTS. NEW HEIGHTS OF ACHIEVEMENT, PERFORMANCE, AND SUCCESS. WE NEED TO PRESERVE THE BASE UPON WHICH WE HAVE BUILT OUR PROGRESS TO DATE AND MOVE TO A NEW LEVEL THAT EMPLOYS ALL THE TOOLS WE CAN MUSTER.

I AM COMMITTED TO WORKING HARD AND APPRECIATE YOUR SUPPORT.

THANK YOU

Sewage Treatment Construction
(Senator Lautenberg)

1. Can privatization of sewage treatment facilities help address the shortfall in sewage treatment funding?

I believe communities should be provided greater choices in financing approaches. Private sector participation in the financing, construction, ownership, and management of wastewater facilities may represent a good choice for some communities. The Agency should facilitate public-private partnerships by removing any obstacles that may inhibit implementation.

2. Are there legislative changes to the Clean Water Act which will be needed to encourage privatization?

EPA should review current authorities to encourage private investment in municipal wastewater facilities through regulatory changes and policy guidance. If confirmed, I will work with the Congress to review how changes to the Clean Water Act could enhance efforts to remove barriers.

Enforcement
(Senator Lautenberg)

3. Your statement says that you want to improve the Clean Water Act enforcement program. In which ways does the program need to be improved?

The Clean Water Act (CWA) reauthorization bill introduced by this Committee includes a number of proposals to improve Clean Water Act enforcement. I intend to work closely with the Committee throughout the reauthorization process to develop the most effective ways to enhance EPA's enforcement efforts.

4. What role should citizens have in enforcement?

Citizens have long had a critical role in Clean Water Act enforcement. I understand that Congress established citizen suit provisions in large part because it recognized that it would not be possible for EPA to address every violation of the Act that came to its attention. Many of the important legal precedents of CWA enforcement were the result of citizen actions, and I strongly support a continued active role for citizens.

5. Should the Congress make it easier for citizens to bring action to enforce the Clean Water Act?

To the extent that Congress may consider ways to make it easier for citizens to bring CWA enforcement actions, I intend to be active in such discussions and will work closely with the Committee in regard to any proposals it may develop.

Beach Testing
(Senator Lautenberg)

A recently released report by the National Research Council, Managing Wastewater in Coastal Waters, concludes that pathogenic viruses and bacteria are a high priority coastal pollution problem. The report recommends that "...EPA, public health agencies, and wastewater treatment agencies should vigorously pursue the development and implementation of techniques appropriate for routine monitoring to measure more directly the presence of pathogens, particularly in marine and estuarine waters."

6. Should EPA require that coastal beach waters be tested to protect the public against pathogens?

I will actively pursue EPA's responsibilities in making sure that public health is protected against pathogens encountered in recreational waters. EPA is required by the Clean Water Act to provide criteria guidance.

I am aware of EPA's efforts to pursue a negotiated rulemaking process to establish new recreational water criteria guidelines through negotiations with all stakeholders. I will support the development of improved recreational water criteria as defined either through Federal legislation, the negotiated rulemaking process, or a combination of the two processes.

7. How can we be sure that the goal of the Clean Water Act that waters be swimmable is being achieved if we don't require that beach waters be monitored to protect swimmers from bacterial infection?

The Clean Water Act provides the statutory basis for water quality standards. It is primarily a State program subject to EPA oversight to maintain compliance with Clean Water Act requirements. I will strive to make sure that EPA does everything it can to help States use and implement appropriate standards and monitoring programs for reducing the risks from microbiological contaminants in swimming waters.

Urban Waterfronts
(Senator Lautenberg)

In Carol Browner's statement on the Clean Water Act before this Committee, she mentioned her support for addressing water quality problems in urban areas.

8. What unique problems do these areas have which would lead you to single these areas out for attention?

Since urban areas concentrate people, commerce, and industry, they can present more potential for pollution from such sources as combined sewer overflows and urban stormwater discharges. In many cases, these urban areas are in coastal areas. I faced some significant challenges in dealing with urban water quality problems as Secretary of the Maryland Department of Environment. There is also an increased potential for recreational use near existing population centers.

9. Do you agree with her that there should be a focus for addressing urban water problems?

I believe that we need to focus on priority problems and urban water problems represent, in many cases, stressed systems that require attention. They also can represent issues related to environmental justice.

10. Should there be a separate program to address this issue?

I believe there is ample opportunity to set initiatives and priorities under current CWA authorities and programs to address the issue of urban water problems.

11. If not, how could these unique problems be incorporated into a comprehensive State watershed program under the Clean Water Act?

State watershed programs help set priorities by determining the relative significance of the problems faced in a particular watershed. I am fully prepared to work with the Committee to discuss ideas for addressing special water quality problems.

Right-To-Know
(Senator Lautenberg)

12. How do you think the Right-To-Know inventory should be used by the Water Office to deal with toxic pollution problems?

The Right-To-Know inventory (RTKI) is a readily available database that can be used to support various regulatory and non-regulatory activities in the water program. I understand that the Office of Water has used RTKI data in many of its activities, such as identifying candidate pollutants for setting drinking water standards, and identifying industries for attention in the pretreatment and effluent guidelines program. RTKI can also be useful in identifying potential multi-media issues. All of this must be done recognizing the inventory is not all inclusive.

New York Bight Restoration Plan
(Senator Lautenberg)

In 1987, the Congress passed my bill to require the EPA to prepare a New York Bight Restoration Plan, I understand that the plan has been completed by Region II but awaits approval in Washington, D.C.

13. Can I have your assurance that you will act expeditiously to publish this report?

Yes, I understand and appreciate your concern and, if confirmed, I will apprise you of the latest status of the Restoration Plan. EPA has advised me that the Phase II and III Interim Reports on the New York Bight Restoration Plan are undergoing review by the Office of Water budget office before transmittal to OMB. Region II has recently transmitted the Final New York Bight Restoration Plan, which is under review by the Office of Wetlands, Oceans, and Watersheds in the Office of Water.

Marine Debris
(Senator Lautenberg)

While marine debris is a serious problem in the U.S., we have not developed a national strategy to address this issue and EPA to date has focused little effort on this problem. My recently introduced bill, the Coastal Waters Improvement Act of 1993 (S. 1459), attempts to address this issue. Title III of the bill calls for EPA to ensure a Marine Debris Coordinating Committee as a forum to ensure the coordination of national research, monitoring, education, and regulatory actions addressing the persistent marine debris problem.

14. Since EPA is the Federal agency with the most experience in solid waste management, what actions can and should EPA take to lead the development of a coordinated national strategy?

If confirmed, I will work with my colleagues in the Agency and other concerned institutions to evaluate the authorities, activities, and opportunities to address the marine debris problem. It is my understanding that EPA and other agencies are currently involved in various marine debris and pollution prevention efforts and I want to see them continue.



Robert Perciasepe
Assistant Administrator-Designate
Office of Water

UNITED STATES SENATE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Perciasepe Robert William
(Last) (First) (Middle)

Position to which nominated: Assistant Administrator for Water Date of Nomination: Pending

Date of birth: 19 - 02 - 51 Place of birth: New Rochelle, New York
(Day) (Month) (Year)

Marital status: Married Full name of spouse: Lee Susan Palmer

Name and ages of children:

<u>Laura Perciasepe</u>	<u>Age 11</u>
<u>Julia Perciasepe</u>	<u>Age 09</u>

Education:	Institution	Dates attended	Degrees received	Dates of degrees
	<u>Dutches Co. New York CC</u>	<u>1970-1972</u>	<u>NA</u>	<u>NA</u>
	<u>Cornell University</u>	<u>1972-1974</u>	<u>BS</u>	<u>Spring 1974</u>
	<u>Syracuse University</u>	<u>1974-1976</u>	<u>MRP</u>	<u>Spring 1976</u>

Employment record: List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

SEE ATTACHED RESUME - Never terminated for any reason.

Employment record—Continued

Honors and awards:

List significant scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

SEE ATTACHED RESUME

Memberships:

List significant memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
SEE ATTACHED RESUME		

Qualifications:

State fully your qualifications to serve in the position to which you have been named.

SEE ATTACHED RESUME

Future
employment
relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

I have resigned from my current job.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

No plans to return.

3. Has anybody made a commitment to you for a job after you leave government?

NONE.

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

- (b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

No limitations.

- (c) If you have previously held any Schedule C or other appointive position in the Executive branch, irrespective of whether the position required Congressional confirmation, please state the circumstances of your departure and its timing.

No previous federal employment.

Financial
Statement

1. Attach a copy of your Executive Personnel Financial Disclosure Report (SF 278).
2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF 278, Schedule A.

None.

3. Are any assets pledged? (Add schedule).

None.

4. Are you currently a party to any legal action?

No.

5. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain the circumstances.

Yes.

6. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

No.

Potential conflicts
of interest

1. Describe any financial or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest, or the appearance of conflicts of interest, with the position to which you have been nominated.

My employment with the State of Maryland could present an appearance
of conflict in future decisions.

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest, or an appearance of conflict of interest, with the position to which you have been nominated.

None.

4. Explain how you will resolve any potential conflict of interest, or appearance of a conflict of interest, that may be disclosed by your responses to the above items.

I plan to excuse myself from decisions on Maryland matters for one
year.

5. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them. For this purpose, you may utilize a statement by the relevant agency Ethics Officer.

I intend to comply with all applicable laws and regulations that

pertain to conflict of interest. More specific information in this

regard will be provided to the Committee prior to my confirmation

hearing in materials from the Agency Designated Ethics Officials.

Political affiliation and activities: List all memberships and offices held in, or financial contributions (in excess of \$1,000), and services rendered to any political party or election committee during the last 10 years.

None.

Published writings:

List the titles, publishers and dates of any books, articles, or reports you have written. (Please list first any publications and/or speeches that involve environmental or related matters.)

SEE ATTACHED RESUME

Additional
Matters:

1. If there is any additional information which you believe may be pertinent to the Members of the Committee in reaching their decisions, you may include that here.

I have been in public service for my entire career, I am ready to
serve.

2. Do you agree to appear before all Congressional Committees which seek your testimony?

YES.

3. Having completed this form, are there any additional questions which you believe the Committee should ask of future nominees?

AFFIDAVIT

Robert Arciasepe, ss, being duly sworn, hereby states that he/she has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

Robert Arciasepe

Subscribed and sworn before me this 16 day of August, 1993

Dwight M. Good
Notary Public

My Commission expires 11/1/96

RESUME**ROBERT PERCIASEPE**

6106 Blackburn Lane
Baltimore, Maryland 21212

Work Phone: 410 - 631 - 3084
Home Phone: 410 - 433 - 8730

OVERVIEW OF QUALIFICATIONS

- Over 18 years of progressively responsible public service including environmental management and research, urban planning, infrastructure management, land-use management, and pollution control. Currently the State of Maryland's Secretary of the Environment during a challenging time of increasing responsibilities and public concern, yet declining resources. Innovative leadership has been the key to achievements.

EDUCATION

- M.R.P., Environmental Planning, SYRACUSE UNIVERSITY, MAXWELL SCHOOL, Syracuse, New York, 1976.
- B.S., Environmental Science, CORNELL UNIVERSITY, Ithaca, New York, 1974.

EXPERIENCE**1990 - Present: Secretary of the Environment**

Maryland Department of the Environment
Baltimore, Maryland

Responsibilities: Direct the activities of the Maryland Department of the Environment. Responsible for all aspects of air and water pollution control, and waste management. Advise the Governor on environmental issues and sit on the Cabinet. Work directly with Maryland Congressional Delegation on environmental issues. Develop and present legislation and legislative positions to the Maryland General Assembly and Congress. Represent Maryland on interstate commissions, boards, and work groups. Manage all aspects of an agency with 850 employees, with a combined operating and capital budget of over \$300 million. Direct the long range policy development for water pollution control and the Chesapeake Bay; air pollution control in a state that is included in the Washington, D.C., Baltimore, and Philadelphia non-attainment areas and the Northeast Ozone Transport Region; waste management including county solid waste plans and interstate compacts. Responsible for radiological emergency actions.

Achievements: Instituted Quality Management programs in the Department to improve management and productivity in the light of budget constraints. Helped organize and acted as first Chairman of the North East Ozone Transport Commission dealing with air pollution problems from Virginia to Maine. Guided the Commission to several major mobile source strategies. Directed and completed a re-evaluation of the Chesapeake Bay nutrient reduction strategy involving Pennsylvania, Virginia, Washington D.C., and EPA. Re-organized the Department to cope with a 13% reduction in work force and a 30% reduction in State funds. Initiated multi-media evaluation and compliance strategies, pollution prevention programs, and a new lead poison prevention commission. Strengthened Water Quality financing, with the Department's bond rating increasing to AA.

1989 - 1990: DEPUTY SECRETARY OF THE ENVIRONMENT

Maryland Department of the Environment

Responsibilities: Coordinate and supervise the activities of 4 Assistant Secretaries in all aspects of the day-to-day operations of the Department. Represented the State on several interstate commissions. Responsible for Departmental actions in the Secretary's absence, and for organizational efficiency and management development.

Achievements: Initiated priority setting mechanisms to achieve efficiency. Initiated a re-evaluation of Chesapeake Bay programs. Formalized multi-media risk assessment processes into the Department's decision-making.

1987 - 1989: ASSISTANT SECRETARY OF THE ENVIRONMENT

Maryland Department of the Environment

Responsibilities: Coordinate and supervise all planning and capital improvement programs in the newly created Maryland Department of the Environment. Represent the State on intra-and interstate boards and commissions. Develop long-range financing plans for water pollution control, solid waste disposal, and water supply. Coordinate the Department's efforts to expedite capital projects. Coordinate long-range pollution control planning in all media.

Achievements: Initiated the Governor's Task Force on Regional Solid Waste Disposal as Chairman. Initiated the State's long-term plan for pollution control on the Chesapeake Bay (as per the 1987 tri-state agreements). Developed revised long-term infrastructure needs analysis. Coordinated the development of the Maryland Water Quality Revolving Fund. The Fund has already financed over \$130 million in pollution control projects.

1986 - 1987: ASSISTANT DIRECTORBaltimore City Planning Department
Baltimore, Maryland

Responsibilities: Coordinate and supervise the operation of 5 planning sections in the Department, including environmental planning, capital programming, infrastructure, and urban design. Develop and present city positions to the Maryland General Assembly. Present and explain budgets and proposals to all levels of City government. Represent Baltimore City to other governments and regional committees. Participate in development reviews, sit on the Mayor's Cabinet, Consultant Evaluation Board, and the Architects and Engineers Awards Commission.

Achievements: Developed a new environmental planning and management division. Supervised the design of an office automation system for the Department. Supervised Baltimore's bond issue campaign. Reorganized departmental sections and functions to better respond to work demands.

1979 - 1986: CHIEF OF PLANNING

Baltimore City Planning Department

Responsibilities: Coordinate and supervise the development of Baltimore City's Capital Budget and Capital Spending Plan (\$200 million plus budget and \$1 billion plus spending plan). Supervise large planning and research projects including budget priority analysis, floodplain management plans, and open space plans.

Develop and present city positions to the Maryland General Assembly on infrastructure needs and water resources. Present and explain budgets and environmental legislation to the Mayor, City Council, Board of Estimates, and other City commissions. Represent Baltimore City to other governments and regional committees, including water quality management and integrated environmental management programs.

Achievements: Initiated and supervised the conversion of the entire Capital Programming system to an "on-line" computer system, greatly increasing efficiency of the staff. Supervised the development of Baltimore's Floodplain Management Plan and Open Space Plan. Initiated and implemented Baltimore City's Flood Hazard Area Acquisition Program. Initiated and implemented a program to renovate public buildings. Successfully completed 6 capital budgets on schedule. Established Maryland's first computerized flood warning system.

1976 - 1979: PRINCIPAL ENVIRONMENTAL PLANNER

Baltimore City Planning Department - Responsible for interjurisdictional watershed management and planning research on air and water pollution.

1975 - 1976: PLANNING ASSISTANT

Central New York Regional Planning and Development Board
Water quality management and environmental research.

1975: TECHNICAL ASSISTANT, STATE UNIVERSITY OF NEW YORK

Published "Guidelines for Environmental Impact Assessment on Terrestrial Resources" (1975)

1975: PLANNING TECHNICIAN

Dutchess County, New York
Land use studies and environmental assessments.

APPOINTMENTS

- *Interstate/International
- Intrastate

- * Chairman (in its 1st year) of the Northeast Ozone Transport Commission (1991 - 1992), current member
- * Chairman, Chesapeake Bay Nutrient Evaluation Committee (1989 - 1992)
- * Chairman of the Governor's Task Force on Solid Waste (1988 - 1989)
- * Vice-chair of the Appalachian States Low-level Radioactive Waste Compact (current)
- * World Trade Center Institute Board of Directors (current)
- * State/EPA Operations Committee
- Chesapeake Bay Trust Board (current)
- Governor's Cabinet (current)
- * EPA/State Enforcement Steering Committee (current)
- Sea Grant Advisory Board (current)
- Maryland Growth and Development Commission (current)
- * Governor's International Cabinet
- * Chairman, Chesapeake Bay Monitoring Committee (1988 - 1990)
- * NGA Clean Air Act States' Committee with EPA (current)
- Governor's Hazardous Waste Task Force (current)
- Governor's Lead Poison Prevention Commission (current)
- Governor's Pesticide Council (current)
- Governor's Cancer Control Council (current)

- Charles Village Civic Association Board (1985 - 1986)
- Patuxent River Commission (1988 - 1990)
- Chesapeake Bay Critical Areas Commission (1988 - 1990)
- Chesapeake Bay Implementation Committee (1988 - 1990)
- Mayor of Baltimore City's Cabinet (1986 - 1987)
- Baltimore City Architects and Engineers Awards Board (1986 - 1987)
- Baltimore City Consultants Evaluation Board (1986 - 1987)

RECENT AWARDS

- Sierra Club Conservation Award, 1992
- American Lung Association Public Service Award, 1992
- American Clean Water Foundation Achievement Award, 1992
- United Way Leadership Award, 1990
- Governor's Award of Excellence, 1989 & 1991

REFERENCES ON REQUEST

STATEMENT OF ELLIOTT P. LAWS
NOMINATED TO BE ASSISTANT ADMINISTRATOR
FOR SOLID WASTE AND EMERGENCY RESPONSE,
ENVIRONMENTAL PROTECTION AGENCY

Mr. Chairman, Senator Chafee, and Members of the Committee:

I am tremendously honored to appear before you today as President Clinton's nominee for Assistant Administrator for Solid Waste and Emergency Response at the Environmental Protection Agency (EPA). I look forward to working closely with you and your staffs on the various legislative and regulatory matters which will be addressed by the Office of Solid Waste and Emergency Response (OSWER) over the next few years.

While I harbor no illusions as to the difficult tasks which are facing this program, I am determined to do my utmost to see that this Administration's strong commitment to environmental protection is carried out to the fullest extent in accordance with our statutory mandates. There is much work to be done, not the least of which is to continue to bridge the gap between economic and environmental interests. I am in complete agreement with Administrator Browner's goal of initiating a "new era in communication between the EPA and America's business community, between environmentalists and business leaders." From my experience in the private practice of law, I am convinced that there is much that business and industry are willing to do to help the environment. It is the responsibility of EPA to encourage and develop that underutilized potential, by opening the channels of communication between all parties, thereby

reducing the distrust and contentiousness which currently dominate the environmental field.

In some respects, the challenges facing the Office of Solid Waste and Emergency Response, like those facing other EPA programs, also provide us with one of our greatest opportunities -- the chance to fundamentally change the way we go about our environmental business. In these times of reduced resources, on the Federal, State, and local levels, we have to develop a way to better meet the increasing demands of our waste problems. EPA has the chance to closely examine its programs, revise procedures where appropriate, reexamine priorities, establish new partnerships, and develop new and innovative approaches which will allow it to meet the environmental goals of the near future.

I will assume this position with an open mind. I am open to changing the way things have been done in the past -- to implement new approaches if that will improve our performance, or to reject old ones if they are not working. If I am confirmed, one of the first messages I would like to impart to OSWER employees is that I support innovation and creativity and that it is not acceptable to reject an alternative simply because it has never been tried before, or because "we don't do things that way." I think too often innovative ideas never see the light of day at EPA, in part, because it is easier to stay the course. I

hope to change that culture by promoting creative thought which will lead to original and inventive solutions.

I also hope to identify, and more importantly address, the barriers to the effective utilization of innovative technologies; to find new ways to identify, collect, and manage information so that EPA and the states have the data necessary to run their programs, and the public has the satisfaction that its "right to know" and safety and health needs are being met -- all without unnecessarily burdening business with duplicative or nonessential information-gathering requirements; and to ensure that minority and economically disadvantaged communities do not bear the brunt of the Nation's waste problem. I am confident that the team the President has selected to lead EPA can make great progress on these and other issues.

In terms of priorities, clearly Superfund reauthorization will be at the top of the list. However, I would like at this time to address some of the other programs in OSWER which will also demand a significant amount of my attention. The Office of Solid Waste has several major regulatory efforts underway which will have tremendous impacts on the management of hazardous wastes both now and in the foreseeable future. The development of the new Hazardous Waste Identification Rule, full implementation of the Agency's combustion strategy, and implementation of the Basel Convention all must be addressed to

varying degrees over the next 12 to 18 months. In addition, the opportunity for real progress in pollution prevention, waste minimization, and recycling must be pursued if we are going to set the stage for real, continuing, and permanent progress in the area of solid and hazardous waste management. These are priorities which cannot be ignored or lost in the shuffle.

As to Superfund, I look forward to joining with Deputy Administrator Sussman in spearheading the Agency's reauthorization efforts. The various EPA, intergovernmental, and external committees which have been enlisted to assist the Administration in developing its reauthorization priorities will soon be reporting their findings. There will be much to do in terms of selecting between proposed alternatives, drafting legislation, and working with Congress and Superfund stakeholders to ensure that a good bill will succeed. Together we can accomplish that.

Even with the ongoing reauthorization effort, however, it cannot be forgotten that there is still a Superfund program to run. Major initiatives are still ongoing, including the Superfund Accelerated Cleanup Model (SACM) and the Superfund Administrative Improvements. Strong support for these initiatives must continue in order to demonstrate that EPA's efforts to make administrative improvements to the Superfund program will not diminish while changes which may require Congressional action are being debated.

Finally, I would like in advance to thank the thousands of employees of the Office of Solid Waste and Emergency Response and EPA's regional offices and laboratories who work hard to implement the Superfund, RCRA, Underground Storage Tank, Chemical Emergency Preparedness and Prevention, Technology, and Oil Pollution programs on a daily basis. These are loyal and dedicated federal employees whom I have just begun to meet, but who will play the most integral part in the success of these programs.

The work of EPA is difficult. We have a tremendously important charge to protect the health and the environment of the citizens of the United States. Yet, we must also perform our mission while remaining sensitive to various other competing, and not necessarily compatible, concerns. Almost no decision of this Agency is received without some degree of rancor from one sector or another. EPA is often faced with legal challenges from both the regulated community and environmentalists -- many times on the same issues. Even when EPA employees do their jobs perfectly and the Agency makes absolutely defensible decisions, criticisms of the process, motivations, or ultimate decisions will follow. That is a fact of life for Agency employees. Too often, the honest and good work that is performed day in and day out by the career employee is lost to the headline focused on the bad apple. This does great harm to Agency morale. I do not generally subscribe to the popular notion of the lazy or incompetent

federal employee. In particular, I do not believe it is an apt description of EPA employees, specifically those responsible for implementing OSWER's mandates. I look forward to working with this superb group of professionals.

Again, I thank you for your time, and the opportunity to appear before you. I will be happy to answer your questions.

**QUESTIONS FOR THE RECORD
ELLIOTT LAWS AS ASSISTANT ADMINISTRATOR
FOR THE OFFICE OF SOLID WASTE**

Q. I'd like to direct your attention to efforts that have been undertaken by the Office of Solid Waste's Definition of Solid Waste Task Force. One of the Task Force's recommendations would result in a solution that will promote beneficial reuse of hazardous waste for an important industry in my state.

Wood treating plants collect wood preservative drippage along with rain, snow, wash water, and other process waters on a drip pad. After the excess preservative and water undergoes filtration or separation to remove dirt and other impurities, the preservative is returned to the production process. Process waters are reused to treat wood or are used in boilers, vacuum pumps and other production processes. The excess wood preservative and process waters do not leave the production process and are beneficially reused. However, under the current RCRA solid waste definition, all of the reused material is regulated as a hazardous waste.

The RCRA hazardous-waste systems subjects the industry's plants to onerous record-keeping and reporting requirements for materials that are not "true wastes" and that never burden the environment. Additionally, the designation of this excess wood preservative and water as "wastes" exposes the industry's companies to potentially costly state hazardous waste taxes, without providing any extra benefit to the environment. Therefore, it would be beneficial if this problem could be solved at the federal level.

On April 28, the Task Force recommended that wood preserving process waters that are returned to the production process be placed on a "fast track" for a conditional exclusion from RCRA's Subtitle C which governs hazardous waste. A proposed rule codifying this conditional exemption is expected to be published within a year. The conditional exemption would solve the problems that the industry is having due to the hazardous waste designation of excess wood preservation and process water. A conditional exemption would also clarify the problem at the federal level and would prevent states from taxing this material, which is beneficially reused.

I hope you will look favorably on the Task Force's recommendation that this problem be solved by a fast track, conditional exemption for excess wood preservative and process waters.

A. I am not currently familiar with the specific recommendations of the Definition of Solid Waste Task Force. However, I do understand the Task Force is looking at regulatory rigidity and recycling disincentives attributable to the current definition. This is an important effort, both in terms of encouraging recycling activities as well as

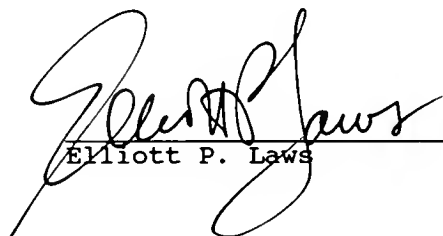
ensuring that such recycling is environmentally sound. If I am confirmed, I will review this specific recommendation.

Q. On December 24, 1992 EPA published a proposed rule for the suspension of the Toxicity Characteristics Rule ("TC Rule") for non-UST petroleum contaminated media and debris. EPA received over 90 comments on this proposed rule--most of them in favor of finalizing the proposed TC Rule suspension. Yet, EPA has thus far taken no action to finalize the December 24, 1992 proposed rule.

*Do you intend to finalize the proposed rule? If so, when?

*Given the difficulties of managing petroleum contaminated media and debris under RCRA Subtitle C, how do you intend to respond to the waste management problems that result from the inclusion of petroleum contaminated media and debris under RCRA Subtitle C?

A. I am not currently familiar with the proposed Toxicity Characteristic Rule or its status. I do, however, understand that there are some legitimate concerns about the management problems under RCRA Subtitle C. If I am confirmed, I am particularly interested in examining approaches to address some of the problems associated with the RCRA program and will look specifically at this proposed rule.



Elliott P. Laws

Superfund
(Senator Lautenberg)

As you know, I have introduced legislation to protect small businesses, municipal taxpayers, and others who sent ordinary household garbage to Superfund sites from facing frivolous lawsuits and crushing Superfund liabilities. This legislation is one of my highest priorities among all the Superfund reform issues.

Q. What will you do to quickly assure the protection of those parties, either through administrative efforts to settle with those parties and protect them from contribution suits, or legislative recommendations?

A. I fully support the changes currently being implemented by EPA in its package of Superfund Administrative Improvements. If confirmed, I will review any other identified proposals in this area which could be implemented administratively, as well as those which would require legislative action.

Q. Won't a few selectively targeted resources expended on settling out a few multiparty municipal landfill sites provide enormous bang-for-the-buck relief in the transaction costs of hundreds of towns?

A. I fully understand the frustrations and burdens caused by transaction costs at multiparty municipal landfill sites. If confirmed I will review this proposal as part of the Agency's overall examination of municipal liability.

I have held hearings and commissioned investigations of waste, fraud, and abuse of the Superfund program by its outside cleanup contractors. I have also received testimony from the EPA Inspector General regarding systemic problems with information management and fiscal controls in the Superfund and other Agency programs.

Q. Please provide a timeline and specific steps that you will institute to assure better contract, fiscal, and information management in OSWER and the Agency.

A. I am aware of the major criticisms of contract, fiscal, and information management at EPA and in OSWER. If confirmed, I will work closely with the Office of Administration and Resources Management to further implement necessary changes which have been identified or are being developed.

I understand that EPA is developing a guidance on factoring future land use to a greater extent into its Superfund risk assessment.

Q. Will this new policy assure that if contamination is left onsite an industrial area, potentially responsible parties will remain on the hook in the long term to clean up the residual contamination should the use ever change?

A. I understand that this proposed policy is currently undergoing inter-Agency review, with an intended release date during the first quarter of FY '94. If confirmed, I will review the proposed policy for this issue prior to its final issuance.

Q. How will this policy select among the various possible representatives of the local community in deciding what the future expected use will be, and account for "company town" influences that may not accurately reflect the community's long term interest in a clean environment?

A. I understand that this proposed policy is currently undergoing inter-Agency review, with an intended release date during the first quarter of FY '94. If confirmed, I will review the proposed policy for this issue prior to its final issuance.

Q. What steps will you take to change the culture (and "bean-counting system") of the Superfund program from one that gives little emphasis to the fair treatment of responsible parties, to one that aggressively settles with de minimis, de micromis, municipal or other parties who face crushing transaction costs and minimal liabilities?

A. I believe the Superfund Administrative Improvements have already begun to "change the culture" at EPA. If confirmed, I will continue those efforts, both administratively and through the Superfund reauthorization process.

Recycling (Senator Lautenberg)

While the State of New Jersey is recycling approximately 36% of its municipal solid waste, it's clear that it is going to need help from the Federal government to stimulate the markets for recycled materials if it is to achieve its goal of recycling 50% of its municipal solid waste.

Q. What role should the Federal government play in developing markets for recycled materials?

A. I believe the Federal government should play a leading role in both recycling and developing, encouraging, and supporting markets for recycled materials.

Q. Do you think that greater use of environmental marketing claims can play a role in stimulating market development?

A. I believe that greater use of accurate environmental marketing claims can have a beneficial impact on market development.

Laboratory Waste
(Senator Lautenberg)

The RCRA reauthorization bills approved by this Committee last year contained a provision that would have required EPA to address the application of the hazardous waste regulations to laboratory operations.

Q. Would you be willing to review this issue once you are confirmed?

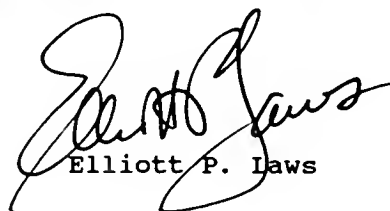
A. Yes, if confirmed I will be willing to review this issue.

Dry Cell Battery Recycling
(Senator Lautenberg)

EPA has proposed to exempt dry cell battery collection programs from Subtitle C requirements to enhance the battery industry's ability to recycle rechargeable batteries containing cadmium and lead. I understand that this regulation is held up for reasons having nothing to do with dry cell batteries.

Q. Would you be willing to take action to make the recycling the rechargeable dry cell batteries more feasible?

A. If confirmed, I will review the status of the EPA proposal with an aim toward improving the feasibility of recycling rechargeable dry cell batteries.


Elliott P. Laws

UNITED STATES SENATE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Laws Elliott Pearson
(Last) (First) (Middle)
Position to which nominated: EPA Assistant Administrator Date of Nomination: _____
Office of Solid Waste and Emergency Response

Date of birth: 05/04/56 Place of birth: New York, NY
(Day) (Month) (Year)

Marital status: Married Full name of spouse: Karen Jackson Laws

Name and ages of children: Lena Marie Cohen (Stepdaughter) 10 years old

Education:	Institution	Dates attended	Degrees received	Dates of degrees
	<u>Georgetown University</u>	<u>08/77 - 05/80</u>	<u>J.D.</u>	<u>05/80</u>
	<u>St. John's University</u>	<u>08/73 - 05/77</u>	<u>B.A.</u>	<u>05/77</u>

Employment record: List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

Law Clerk, Chief Counsel, U.S. Army Corps of Engineers
20 Massachusetts Avenue, Washington, D.C. 20314
06/77 - 06/80 - full time summer and parttime during school year

Assistant District Attorney, New York County District Attorney's
Office, One Hogan Place, New York, NY 10013
08/80 - 02/84

Attorney/Advisor, U.S. Environmental Protection Agency, Office of
Enforcement and Compliance Monitoring, Water Enforcement Division,
401 M Street, S.W., Washington, D.C. 20460
02/84 - 05/85

Employment record—Continued

Trial Attorney, U.S. Department of Justice, Land and Natural Resources
 Division, Environmental Defense Section
 10th and Constitution Avenue, N.W., Washington, D.C. 20530
 05/85 - 10/87
 Associate, Patton, Boggs & Blow
 2550 M Street, N.W., Washington, D.C. 20037
 10/87 - 12/90
 Partner, Patton, Boggs & Blow
 2550 M Street, N.W., Washington, D.C. 20037
 01/91 - present

Honors and awards:

List significant scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Memberships:

List significant memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
St. Coletta Society of Northern Virginia	Director	06/91 - present

Qualifications: State fully your qualifications to serve in the position to which you have been named.

See attached supplemental sheet

**Future
employment
relationships:**

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

Yes

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

None

3. Has anybody made a commitment to you for a job after you leave government?

No

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

N/A

Elliott Pearson Laws

**Supplemental sheet to page 3 of
United States Senate, Committee on
Environmental and Public Works
Information Requested of Presidential
Nominees**

Qualifications:

I have been an attorney at Patton, Boggs & Blow in Washington, D.C., specializing in environmental litigation and the administrative and legislative aspects of environmental law since 1987. During that time, I have served as lead attorney for clients at numerous Superfund sites around the country. I have also been responsible for issues under RCRA, The Clean Air and Clean Water Acts. Prior to joining the firm, I served in the Department of Justice's Land (now Environment) and Natural Resources Division as a trial attorney in the Environmental Defense Section. While at the Department, I conducted litigation, primarily on behalf of EPA, but also for other federal agencies, including the Departments of the Army and the Air Force. My representation of EPA included both District Court and Court of Appeals litigation under Superfund, RCRA, the Clean Water Act and other environmental statutes. Prior to joining the Department of Justice, I was an enforcement attorney with EPA's Water Enforcement Division. I am the co-author of several articles and books on environmental law and federal administrative policy. I also served as Co-Chair of the Environmental Committee of the Bar Association of the District of Columbia.

(b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

No

(c) If you have previously held any Schedule C or other appointive position in the Executive branch, irrespective of whether the position required Congressional confirmation, please state the circumstances of your departure and its timing.

N/A

**Financial
Statement:**

1. Attach a copy of your Executive Personnel Financial Disclosure Report (SF 278).

2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF 278, Schedule A.

None

3. Are any assets pledged? (Add schedule).

No

4. Are you currently a party to any legal action?

No

5. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain the circumstances.

Yes

6. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

No

- Potential conflicts of interest: 1. Describe any financial or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest, or the appearance of conflicts of interest, with the position to which you have been nominated.

Own stock in Dominion Resources, Inc., parent
company to Virginia Power, Inc.

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest, or an appearance of conflict of interest, with the position to which you have been nominated.

None

4. Explain how you will resolve any potential conflict of interest, or appearance of a conflict of interest, that may be disclosed by your responses to the above items.

Conflicts associated with prior representations of clients of
my law firm will be the subject of the attached ethics agreement
with EPA. I have also committed to divest the above referenced
stock. (See attached letter to Gerald H. Yamada, Designated Agency
Ethics Official.)

5. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them. For this purpose, you may utilize a statement by the relevant agency Ethics Officer.

See attached ethics agreement and letter exchange with

Gerald H. Yamada, Designated Agency Ethics Official.

Political affiliation and activities: List all memberships and offices held in, or financial contributions (in excess of \$1,000), and services rendered to any political party or election committee during the last 10 years.

Member, National Democratic Party

Published writings:

List the titles, publishers and dates of any books, articles, or reports you have written. (Please list first any publications and/or speeches that involve environmental or related matters.)

The Regulation of Stationary Sources chapter of Clean Air Law and

Regulation , Published by BNA Books, 1992

Enforcement and Liabilities chapter of Environmental Law Handbook.

11th Edition, Published by Government Institutes, Inc., 3/91

Russell V. Randle - Co-Author

Enforcement: The Power Behind The Words and The National Pollutant

Discharge Elimination System chapters of Clean Water Handbook.

Published by Government Institutes, Inc., 5/90. John C. Martin -

Co-Author

Elliott Pearson Laws

Supplemental sheet to page 6 of
United States Senate, Committee on
Environment and Public Works
Information Requested of Presidential
Nominees

5. Published Writings:

Enforcement and Liabilities chapter of Environmental Law Handbook, 10th Edition, Published by Government Institutes, Inc., 3/89, Russell V. Randle - Co-Author

The Water Quality Act of 1987 chapter of Clean Water Deskbook, Published by Environmental Law Institute, 1988, Lawrence R. Liebesman - Co-Author

Restraining the Regulators: Legal Perspectives on a Regulatory Budget for Federal Agencies chapter of Harvard Journal on Legislation, v. 18, No. 1, 1981, Wood and Breen - Co-Authors

Additional
Matters:

1. If there is any additional information which you believe may be pertinent to the Members of the Committee in reaching their decisions, you may include that here.

2. Do you agree to appear before all Congressional Committees which seek your testimony?

Yes

3. Having completed this form, are there any additional questions which you believe the Committee should ask of future nominees?

AFFIDAVIT

Elliot J. Laws ss, being duly sworn, hereby states that he/she has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

Subscribed and sworn before me this 25 day of August, 1993

Samuel Robinson
Notary Public

25 August 93
State of Maryland
Samuel Robinson
August 23 1994

Remarks of Lynn R. Goldman
Before the Senate Committee on Environment and Public Works
September 29, 1993

Good morning. I am Lynn Goldman. It is an honor for me to appear before this committee. Today I am seeking your confirmation to serve as Assistant Administrator for Prevention, Pesticides and Toxic Substances at the Environmental Protection Agency.

When Administrator Carol Browner asked me to take this position, she emphasized that the President and she share the commitment to environmental and public health protection, and to bringing people together to create workable solutions to difficult issues that we face as a society. The President has also made it clear that not only a healthy environment but also a healthy economy is necessary to guarantee the well being of all Americans. I share these commitments.

To become better acquainted, I would like to tell you a little about my background. I was born and grew up in Galveston, Texas. I received my undergraduate education at the University of Houston and the University of California, Berkeley, where I studied conservation of natural resources. I then attended public health school at the Johns Hopkins School of Hygiene and Public Health, where I concentrated on epidemiology and health planning. I received an MD from the University of California Berkeley/University of California San Francisco Joint Medical Program and did a residency in pediatrics at Children's Hospital in Oakland, California.

At Children's, I began to see a connection between my interests in environmental health and my interest in children. For some, such as the children with totally preventable infectious diseases and lead poisoning, it was clear that there was a causal relationship between poverty and environment, as well as inadequate access to care. Many others had diseases for which we do not fully understand the causes: prematurity, childhood cancer, birth defects, asthma, and others. I

felt frustrated by our inability to prevent these diseases, either because we seemed to lack the knowledge or the will to do so.

In the second year of pediatric residency I began to conduct research part time. I studied the rates of health problems and low birth weight and the growth of children living near the Love Canal hazardous waste site. In 1985, I joined the California Department of Health Services as a medical epidemiologist. For the last two years there I have acted as chief of the Division of Environmental and Occupational Disease Control. In that role I managed a program responsible for occupational health, environmental health investigations, childhood lead poisoning prevention and birth defects monitoring.

If I become Assistant Administrator at the EPA I will keep paramount the overarching goals of the office. These are protection of health and the environment through pollution prevention, promoting the use of safer chemicals and processes, management of high priority chemicals, and providing information to the public. These programs seek not only to reduce risks but also to prevent risks before they occur. To achieve these goals I will adhere to three principles: good science, good management and good communication.

The first principle is to use good science in decision making. I not only have a background in research but have also served on several committees for the National Research Council and understand the value of bringing good science to complex environmental policy questions. Increasingly this work needs to be carried into the international arena where issues of pollution prevention, sustainable development, chemical management, pesticide use and trade have become paramount.

The second principle is that of encouraging responsible management. I have now had the privilege of meeting many of the people I will work with at EPA. The expertise in a number of

areas -- management, science, policy and legal -- is impressive and the staff I would lead are dedicated and work hard to accomplish the mission of the prevention, pesticides and toxic substances program. My approach to management will be to work closely with these highly qualified professionals to ensure that the mission is carried out in the most effective way possible, with an emphasis on making decisions in a prudent but expeditious fashion. I will work closely with the program staff on all levels to identify the best ways to accomplish these goals.

The third principle is to work closely with all involved parties. Among those, and most important, are you and other Members of Congress. I realize that, with its broad scope under FIFRA, TSCA, and parts of EPCRA, FFDCA and Title X, the program I will head needs to involve many congressional members and committees, and I look forward to doing so. In addition, I think it is very important to work closely with all affected parties, including other agencies, state and local government, chemical producers and users, the food industry, farmers, labor, public interest groups, academic researchers, the public health and medical community, and, of course, the general public. Too often there have been opposing camps between environmental groups and regulated industries. I hope to bridge that gap.

For the pesticide program, the Administration articulated a number of objectives last June that I am very enthusiastic about carrying out including: ensuring the safety of the food supply; reducing the risks to people and the environment from pesticides while ensuring cost-effective pest management tools; reducing the use of higher risk pesticides; and, through working closely with the USDA and incentives in the registration system, promoting the development of safer pest control agents. In particular, I am interested in increasing the emphasis on risks to children, taking into account their unique susceptibility, the diet that children eat and the multiple sources of children's exposure to pesticides. In addition I am aware of the non-dietary human health risks and environmental risks.

In my work in the state of California, I dealt first hand with the consequences of misuse and mishandling of pesticides. This has strengthened my commitment to work with the pesticide program to improve the functioning of the program including speeding the registration and re-registration processes, providing more information to the public about pest control and the program's activities and increasing public involvement in the program. We will do this by using all the tools available to us under FIFRA and FFDCA to ensure a minimum disruption of agriculture while protecting human health, the environment and ecosystems. Particularly, for the re-registration process, I am concerned about the delays that have occurred over the years and the need to make these critical decisions in a timely fashion. As you know, the EPA plans to work closely with Congress to bring about needed legislative changes in FIFRA and FFDCA to accomplish all of these tasks more effectively and to be sure that the Agency can do the job that Congress has asked it to do.

For the pollution prevention and toxic substances program, there are a number of important priority areas. I am committed to continuing the work in pollution prevention and the many excellent initiatives underway to work with industry to achieve voluntary reductions in risks associated with the use of chemicals and to develop more environmentally friendly technologies. Lead poisoning prevention will also be at the top of my agenda. I have been very involved with this issue in the past, in developing a lead poisoning prevention program for the state of California, as a member of the American Academy of Pediatrics Environmental Health Committee and in serving as an advisor to the Centers for Disease Control.

The Toxic Release Inventory (TRI) is a program that has produced benefits by making information readily available in a user friendly manner and I will be certainly committed to its maintenance and expansion, as well as finding other means of making more information available to the public. TRI data have been useful for the 33/50 program, which not only cut emissions to the environment but also saved companies money, an example of how we can work with industry to

ensure that environmental goals and the economy are not in conflict. This is an approach that I would like to build on. In addition, I will work closely with the program staff to improve the chemicals testing and existing chemicals programs. I intend to look closely at TSCA and what administrative and legislative changes are needed to provide EPA with the tools that are needed to carry out the mission more effectively. Over the longer term I hope we can build a toxic chemical program that serves the goals of pollution prevention and public "right to know."

As you well know, these priorities are critical environmental issues for this Administration and for Congress. If I am confirmed, I will look forward to working cooperatively with you on these issues. Again, it is a pleasure to be here today, and I will be pleased to answer your questions.

Right To Know Program
(Senator Lautenberg)

You've expressed interest in your statement for expanding the Right-to-Know program and for using additional techniques to make information readily available to the public.

What ideas do you have to do this?

I think that the Environmental Protection Agency houses a tremendous quantity of information that the public would like to know more about. If I am confirmed there are several strategies I would pursue in this area including: (1) expanding access to TRI data in computers and easy-to-use formats; (2) educating the public about how to interpret TRI and other agency data; and (3) helping make other agency data more compatible with each other and available in more "user friendly" formats. I look forward to working with other EPA offices, EPA constituencies and Congress to meet these objectives.

Environmental Labeling
(Senator Lautenberg)

I've introduced legislation in past Congresses to have EPA establish an environmental labeling program.

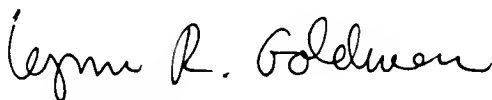
Do you think that environmental labeling can help consumers make choices to protect the environment?

I think that consumers favor environmental labeling because they want to make choices to protect their environments.

It is clear that "green" labels cover a wide range of meanings and applications. How consumers make choices on labels depend on a number of issues, including, what the labels intend to convey; how well the labels communicate to consumers; level of consumer motivation; and, most importantly the scientific basis for a labeling system.

What role do you think EPA should play in regulating environmental marketing claims?

EPA provides technical support to the Federal Trade Commission for the Guide for the Use of Environmental Marketing Claims. I believe that the EPA should continue to give the FTC support in this area when needed. If I am confirmed, I will work with Congress and stakeholders to determine whether there are other useful roles EPA could play in regulating environmental marketing claims.


Lynn R. Goldman

Administration Pesticide/Food Safety Legislative Reform
(Senator Graham)

1) Based on the Agency's recent pronouncement that it will reduce the use of pesticides, what measures will you take to assure the American farmer that he/she will have "alternative" tools to produce an abundant, healthy and affordable product?

If confirmed, there are several separate, but important strategies which I will vigorously pursue to ensure American farmers that they will have the tools they need to continue to produce an abundant, healthy and affordable product. First, I will work to see that the Administration's food safety reforms are enacted. The Administration has proposed several changes in FIFRA which should increase the availability of alternative, safer pest control technologies. A special conditional registration authority for biological pesticides, an increase in exclusive use data protection for "safer" pesticides, and expedited review for safer products, will create incentives for the development and registration of alternative technologies and products. Secondly, I will work with the Office of Pesticide Program's (OPP) Registration Division to continue work underway in that office to streamline the process by which pesticides are registered. Third, I will work closely with my counterparts at the Department of Agriculture. It is important that as USDA works to provide alternative pest control strategies to growers, that they have input from EPA about which pesticides are of regulatory concern. Finally, I believe that it is very important for the Agency to take into consideration the availability of alternatives prior to the initiation of a major regulatory action.

2. In the absence of an actual bill, could you please elaborate on your understanding of when, or if, the "phase down" regulatory action would supersede a Special Review and if it would take into account benefits?

Based on my understanding of the Administration's phase down proposal, I would envision proposing a phase down in situations where the Agency has reviewed existing data and has determined that the chemical is likely to pose a significant risk to humans or the environment. Instead of continuing to study or review the risks associated with such a chemical, I would consider a phase down as an intermediate action. Special Review may still be appropriate for more formal review of a pesticide which has risk concerns. With respect to benefits, I will certainly be interested in understanding the economic impacts to pesticide users of this type of regulatory action. As I understand the Administration's proposal, EPA would be required to consult with USDA to minimize disruption to production agriculture.

3. What are your views on the problems encountered by minor crops pesticide users, as these chemicals are being taken off the shelves due to economic rather than health-risk reasons? Could additional provisions (i.e., S.985) to assist these growers be added without compromising health safety?

I am very sympathetic to the minor crop users' concern about losing many "minor" uses. These are often pesticides used on fruits and vegetables, an important part of the diet for all Americans and especially children. There are several key concepts in S. 985 which I believe the Administration has endorsed in its food safety reform proposals. The Administration has also supported increased funding for the IR-4 program which is essential to supporting many minor uses. However, resolution of the problem will require that not only government but also growers and the chemical industry take an active role. Grower groups need to support development of residue data which is necessary for EPA to make sound, health protective regulatory decisions. The chemical industry must show a willingness to support minor crops. If the government, growers and industry all do their part, I believe we can significantly minimize the disruption to the grower community, and ensure the American public that the pesticides used on these minor but critical crops, are safe.

4. How will you ensure that EPA registrations and tolerance levels are based on what you have called in your testimony "good science" as this term is constantly evolving?

If confirmed, I will play a very active role in working with EPA scientists to see that the Agency is continuously incorporating the best science into all of its regulatory decisions. I believe that the EPA and OPPTS have very capable and dedicated scientists. They need opportunities to stay current with the "state of the art" and they need access to external scientific research.

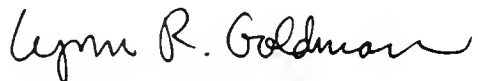
5. As a pediatrician, do you feel that the Administration's proposal appropriately responds to the National Academy of Sciences' study? Would you suggest any further provisions to protect the health and safety of children from over exposure to pesticides?

As a pediatrician, I believe that the Administration's legislative proposal is responsive to the NAS Report, "Pesticides in the Diets of Infants and Children". In addition, I am impressed by how the Administration already is moving forward with some of the recommendations. I would not suggest further provisions to the Administration's comprehensive approach.

6. You have stated, and I agree, that the Delaney Clause is "outdated" and "unworkable". But, how does your office plan to help educate the public that a "reasonable certainty of no harm" versus a "zero risk" standard is sufficient to protect human health?

I agree that one of my greatest challenges will be to educate the public that the Administration's proposed safety standard, a reasonable certainty of no harm" versus a zero risk standard, is protective of public health. First, I believe, it is important to talk to the public about the limited scope of the Delaney clause. It applies only in a limited number of situations (when carcinogenic pesticide residues concentrate in processed foods), and it applies only to one health endpoint, cancer. The Administration's safety standard will apply to all pesticide residues on all foods and will be protective of all health endpoints.

However, I believe that the real issue is not zero risk versus negligible risk, the real issue is one of public confidence. If the public has confidence that the EPA will take action when the facts dictate action, I believe the public will willingly accept a safety standard of a reasonable certainty of no harm. I hope to earn that trust as the Assistant Administrator for Prevention, Pesticides and Toxic Substances.



Lynn R. Goldman

UNITED STATES SENATE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Goldman Lynn Rose
(Last) (First) (Middle)

Position to which nominated: Assistant Administrator for Prevention, Pesticides & Toxic Substances Date of Nomination: _____

Date of birth: 04/24/51 Place of birth: Galveston, Texas
(Day) (Month) (Year)

Marital status: Married Full name of spouse: Douglas George Hayward

Name and ages of children: None

Education:	Institution	Dates attended	Degrees received	Dates of degrees
	<u>See Attachment I</u>			

Employment record: List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

See Attachment I

Employment record—Continued

See Attachment I

Honors and awards: List significant scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

University of Houston, University Scholar, 1970-72
National Institute for Environmental Health Sciences, National Science Research Award, 1984-85

Memberships: List significant memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
See Attachment I		

ATTACHMENT I

Education (cont'd.)

Institution	Dates Attended	Degrees Received	Dates of Degrees
University of Houston	1970-72	None	N/A
University of California Berkeley	1974-76	BS	1976
UC Berkeley	1977-79	MS	1979
Johns Hopkins University	1976-77	MPH	1981
UC San Francisco	1979-81	MD	1981
Children's Hospital Oakland	1981-82	Internship in Pediatrics	1982
Children's Hospital Oakland	1982-85	Pediatrics	1985
UC Berkeley	1984-85	Residency in Preventive Medicine	1985

Employment (cont'd.)

1985-86 - Medical Epidemiologist, Environmental Epidemiology Unit, Epidemiological Studies and Surveillance Section, Office of Environmental Health Hazard Assessment, Preventive Medical Services Division, Public Health, California Department of Health Services, Berkeley, CA. Conducted epidemiologic studies, investigated outbreaks, provided advice and consultation to local health departments and the state's Toxic Substances Control program.

1986-88 - Chief, Environmental Epidemiology Unit, Epidemiological Studies and Surveillance Section, Office of Environmental Health Hazard Assessment, Preventive Medical Services Division, Public Health, California Department of Health Services, Berkeley, CA. Supervised a small unit that provided medical epidemiological assistance to the Toxic Substances Control Program and local health agencies and conducted epidemiologic studies.

1988-90 - Chief, Environmental Epidemiology & Toxicology Section, Office of Environmental Health Hazard Assessment, Preventive Medical Services Division, Public Health, California Department of Health Services, Emeryville, CA. Supervised an interdisciplinary team of epidemiologists, toxicologists, physicians and analysts to carry out environmental epidemiologic studies.

1990-92 - Chief, Environmental Health Investigations Branch, Health Hazard Assessment Division, Public Health, California Department of Health Services, Emeryville, CA. Managed an environmental epidemiology program responsible for emergency response and outbreak investigations,

reproductive epidemiology studies, environmental cancer studies, and childhood lead poisoning investigations and program development.

1991-1993 - Acting Chief, Division of Environmental and Occupational Disease Control, Prevention Services, California Department of Health Services, Emeryville, CA. Manage and provide leadership for a statewide program that is responsible for environmental epidemiology, childhood lead poisoning prevention, occupational health studies and birth defects monitoring. Responsible for a \$10 million budget and 200 staff and for providing scientific and policy direction. Serve as the state environmental epidemiologist and represent the California Department of Health Services in policy and legislative forums and in a number of advisory and consultative capacities.

Voluntary Employment

Site Visit Committee, Research Center
Grant Application, National Institute for
Environmental Health Sciences

1987

Consultant, Committee on the EPA National Human Adipose Tissue Survey, National Research Council, Board of Environmental Sciences and Toxicology	1989-90
Member, Advisory Panel, Maricopa Health Studies Phoenix, Arizona, US Centers for Disease Control	1989-92
Member, Committee to Evaluate the Hazardous Materials Management Program of the Bureau of Land Management, National Research Council, Board of Environmental Sciences and Toxicology	1989-91
Chair, Peer Review Committee, Woburn Follow-up Studies, Massachusetts State Health Department and US Centers for Disease Control	1989-92
Consultant, Committee on Environmental Epidemiology - National Research Council, Commission on Life Sciences, Board on Environmental Studies and Toxicology	1990
Participant, Workshop on Planning Basic Research for Environmental Restoration at Department of Energy Sites, US Department of Energy	1990
Member, Committee on Waste Water Management for Coastal Urban Areas; Chair, Subcommittee on Health, Aesthetics and Ecosystems, National Research Council, Water Science and Technology Board	1990-93
Member, Advisory Committee on Childhood Lead Poisoning Prevention, US Centers for Disease Control	1990-93
Member, Committee on Environmental Epidemiology National Research Council, Commission on Life Sciences, Board on Environmental Studies and Toxicology	1991-93

Participant, Institute for the Evaluation of Health Risks Developmental and Reproductive Toxicity Project	1992-93
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Representative, Association of State and Territorial Health Officers, Committee on Environmental Health	1992-93
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Representative, Association of State and Territorial Health Officers, Committee on Childhood Lead Poisoning	1992-93
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Memberships

Member, American Academy of Pediatrics, Committee on Environmental Health	1989
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Participant, National Council of State Legislatures, Forum on State and Tribal Toxics Action, Lead Committee	1991-92
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Member, National Research Council, Water Sciences and Technology Board	1992-93
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Member, California Medical Association, Council on Scientific Affairs, Technical Advisory Committee on Childhood Lead Poisoning	1992-93
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American Academy of Pediatrics	1984-Present
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American Public Health Association	1976-Present
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California Public Health Association	1988-Present
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International Society of Environmental Epidemiology	1989-Present
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Society for Occupational and Environmental Health	1991-Present
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American Medical Association	1993-Present
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Qualifications: State fully your qualifications to serve in the position to which you have been named.

SEE ATTACHMENT II

Future
employment
relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

I plan to take a leave of absence from the California

Department of Health Services. There will be no continuing financial relationship. See attached correspondence (Attachment III)

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

I plan to resume employment at the California Department of

Health Services.

3. Has anybody made a commitment to you for a job after you leave government?

No.

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

N/A

ATTACHMENT II

I am well qualified to serve as Assistant Administrator for the U.S. Environmental Protection Agency Office of Prevention, Pesticides and Toxic Substances (OPPTS). I am a public health professional with both training and experience in environmental health issues. I have degrees in Conservation of Natural Resources, Public Health and Medicine and am a board certified pediatrician. At the California Department of Health Services, I most recently headed a division responsible for environmental epidemiology, occupational health, childhood lead poisoning prevention and birth defects monitoring. This job involved managing a staff of 250 and a budget of between \$10 and \$20 million. Prior to that, I served in a number of capacities ranging from medical epidemiologist to chief of the environmental health investigations program. The position involved responsibility for complex statewide environmental health policy issues, involving many of the areas of concern for OPPTS and the agency as a whole.

During my service at the state health department, California was a leader in many areas of environmental and public health protection. I am knowledgeable in areas of risk assessment, environmental regulation and pollution prevention. I experienced first hand the results of misuse and mishandling of pesticides in investigating and responding to incidents such as the aldicarb in watermelon food poisoning epidemic in 1985, a wood preservative explosion and fire in Northern California in 1987, and the metam sodium spill in the Sacramento River in 1991. These experiences taught me the importance of careful attention to responsible management of chemicals in our society and the potential for adverse consequences to health and the environment and major costs as well.

I played a significant role in the area of prevention of childhood lead poisoning. First, in 1985 I initiated studies of the rates of lead poisoning and the amount of lead in the environment in high risk neighborhoods in the state. These studies demonstrated the presence of lead hazards for California children. In 1989, I worked with the administration, community groups and the state legislature to put together a comprehensive program of childhood lead poisoning prevention.

I also have experience with developing environmental policy on a national level. There are a number of examples. I have served on three committees of the National Academy of Sciences: the Committee on Management of Hazardous Materials on Federal Lands, which evaluated the environmental management practices of the Bureau of Land Management; the Committee on Coastal Wastewater Management; and the Committee on Environmental Epidemiology. Last year, the NAS appointed me to their Board on Water Sciences and Technology. I have served on the Environmental Health Committee of the American Academy of Pediatrics for the last

several years to develop sound environmental health policies for all the nation's children. In that capacity I contributed to a number of national policy statements and scientific reviews on issues such as air pollution, tobacco smoke, lead poisoning and pesticides. I have also served on the Department of Health and Human Services Advisory Committee on Childhood Lead Policy, where I assisted in the development of a national policy to eradicate this important totally preventable environmental disease.

In my career I have shown a commitment to protection of health and the environment, guided by good science. My state experience gives me a practical sense of what can be accomplished on the state and local levels, and how. My belief is that policy needs to be driven by a combination of good science and maximum participation of all involved parties including state and local government, affected communities and industry.

It is my hope that I can continue this record of public service in environmental protection as Assistant Administrator for the Office of Prevention, Pesticides and Toxic Substances.

DEPARTMENT OF HEALTH SERVICES

714/744 P STREET
P O BOX 942732
SACRAMENTO, CA 94234-7320
(916) 657-1493



August 2, 1993

ATTACHMENT III

Lynn R. Goldman, M.D., M.P.H.
1509 McGee Avenue
Berkeley, CA 94703

Dear Lynn:

Congratulations on your recent nomination for the position of Assistant Administrator for Prevention, Pesticides and Toxic Substances, U.S. Environmental Protection Agency. I know everyone in the Department joins me in wishing you a speedy confirmation and the best of luck in your new position.

I am happy to grant your request for annual leave beginning July 22 until you are confirmed by the Senate, up to the total amount of annual leave you have available. I am also pleased that the Department has approved your request for a one-year leave of absence commencing on the date you are confirmed by the Senate, as discussed in the detailed memorandum sent to you by Laura Montgomery, dated July 27, 1993 (copy enclosed).

I, too, have very much enjoyed working with you over the past two years. I look forward to a smooth transition period and, again, extend my congratulations and best wishes in your new position.

Sincerely,

George W. Rutherford, M.D.
Deputy Director

Enclosure

cc: William Avritt, Chief
Personnel Services Branch
714 P Street, Room 850
Sacramento, CA 95814

M e m o r a n d u m

Date : July 27, 1993

To : Lynn R. Goldman, M.D., M.P.H.
5801 Christie Avenue, Suite 600
Emeryville, CA 94608

From : Administration
714 P Street, Room 823
Sacramento, CA 95814
(916) 657-0373

Subject : Leave of Absence

This is in response to your letter dated July 15, 1993, in which you request that the Department grant you the following:

1. To use your accumulated leave time.
2. A one year leave of absence.
3. A possible extension of the one year leave of absence.

Your request for the one year leave of absence is approved. The effective date will be upon confirmation of your appointment by the Senate of your appointment. You will be using your annual leave credits from July 23, 1993 until your appointment is confirmed. If, at the end of your one year leave you would like an extension, submit your request at that time.

You have a mandatory right of return to your former position at the conclusion of your leave. Government Code Section 18552 defines "former position" as either (a) the last position which an employee held as a probationer, permanent employee, or career executive, or (b) a position to which the same appointing power could have assigned such an employee within a designated geographical, organizational, or functional subdivision of a state agency as determined appropriate by the board. This means that you do not have mandatory reinstatement rights to a specific position; however, you do have a mandatory right to a Public Health Administrator I or equivalent position as identified by the Department upon your return.

It is your responsibility to notify the Department of your intent to exercise your mandatory return right. Please notify this office at least 30 days in advance of the expiration of your leave of absence of your intentions to exercise this right so that appropriate plans for placement can be made.

Lynn R. Goldman, M.D., M.P.H
Page 2
July 27, 1993

If you want to continue your health and dental insurance benefits while you are off pay status, please contact the Personnel Services Specialist (PSS) for your program to obtain the Direct Payment Authorization forms. The PSS will be able to explain the process and provide you with the appropriate forms. Please be advised that you may only elect to continue the insurance coverage within 30 days of your separation. The PSS can be contacted at 714 P Street, Room 850, Sacramento, CA 95814 or at (916) 657-0373.

If you have any question, please contact Donna Salazar of my staff at (916) 654-0463.



Laura Montgomery, Chief
Personnel Services Section

cc: George W. Rutherford, M.D.
Deputy Director
Prevention Services
714 P Street, Room 1253
Sacramento, CA 95814

Personnel Transactions
714 P Street, Room 850
Sacramento, CA 95814

(b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

No.

(c) If you have previously held any Schedule C or other appointive position in the Executive branch, irrespective of whether the position required Congressional confirmation, please state the circumstances of your departure and its timing.

N/A

Financial
Statement

1. Attach a copy of your Executive Personnel Financial Disclosure Report (SF 278).
2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF 278, Schedule A.

None

3. Are any assets pledged? (Add schedule).

No.

4. Are you currently a party to any legal action?

No.

5. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain the circumstances.

Yes.

6. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

No.

Potential conflicts
of interest:

1. Describe any financial or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest, or the appearance of conflicts of interest, with the position to which you have been nominated.

None.

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest, or an appearance of conflict of interest, with the position to which you have been nominated.

None.

4. Explain how you will resolve any potential conflict of interest, or appearance of a conflict of interest, that may be disclosed by your responses to the above items.

N/A

5. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them. For this purpose, you may utilize a statement by the relevant agency Ethics Officer.

I will recuse myself from decisions specifically involving the
State of California for one year. My formal recusal statement is
attached (Attachment IV).

Political affiliation and activities: List all memberships and offices held in, or financial contributions (in excess of \$1,000), and services rendered to any political party or election committee during the last 10 years.

I have been registered as a Democrat and an Independent at
various times during the last 10 years. During the last Presidential
campaign I was a member of a group "Pediatricians for Clinton,"
which sent campaign mailings to other physicians in California.

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written. (Please list first any publications and/or speeches that involve environmental or related matters.)

See Attachment V

ATTACHMENT V

PUBLICATIONS

Health of children living near the hazardous waste site, Love Canal. Hazardous Waste and Hazardous Materials, 1985.

Low birth weight, prematurity and birth defects in children living near the hazardous waste site, Love Canal. Hazardous Wastes and Hazardous Materials, 1985.

Acute symptoms in persons residing near a field treated with the soil fumigants methyl bromide and chloropicrin, Western Journal of Medicine, July, 1987.

Growth of children living near the hazardous waste site, Love Canal. Human Biology, 1987.

Study endpoints, goals and prioritization for a program in hazardous chemical epidemiology. Archives of Environmental Health, 1988.

Foraging farm animals as biomonitors for dioxin contamination. Chemosphere, 1989.

Serum, adipose and autopsy tissue PCDD and PCDF levels in people eating contaminated beef and chicken eggs. Chemosphere, 1989.

Preventing lead poisoning in children. Western Journal of Medicine, 1990.

Aldicarb food poisonings in California--1985-1988: toxicity estimates for humans. Archives of Environmental Health, 1990.

Micronucleated erythrocytes as an index of clastogenic damage in humans: demographic and dietary factors associated with micronucleated erythrocytes in splenectomized subjects. Cancer Research, August 15, 1990.

Fourth of July pesticide food poisoning from contaminated watermelons in California, 1985. Archives of Environmental Health, 1990.

Bioaccumulation of dioxins in food animals II: controlled exposure studies. *Chemosphere*, 1990.

Persistent eosinophilia in an infant with probable intrauterine exposure to L-tryptophan containing supplements. *Pediatrics*, 1991.

A follow-up study of the community near the McColl hazardous waste disposal site. *Environmental Health Perspectives*, 1991.

Assessing the risks from 2,3,7,8 TCDD and TCDF in milk packaged in paper. *Chemosphere*, 1991.

Biotransfer and bioaccumulation of PCDD/PCDFs from soil: controlled exposure studies of chickens. *Chemosphere*, 1991.

The association between hemoglobin and behavior problems in a sample of low-income Hispanic preschool children. *Developmental and Behavioral Pediatrics*, 1992.

A study of current residents' knowledge of a former environmental health survey of their community. *Archives of Environmental Health*, 1992.

The use of exposure data bases for status and trends analysis. *Archives of Environmental Health*, December, 1992.

Even advantaged children show cognitive deficits from low-level lead toxicity (editorial). *Pediatrics*, December, 1992.

Journal articles submitted

Access to medical care in a rural Hispanic community; an economic perspective. Submitted, 1992.

Reduced severity of eosinophilia-myalgia syndrome associated with the consumption of vitamin-containing supplements prior to illness. Submitted, 1992.

Elevated symptom prevalence associated with mechanical ventilation in office buildings. Findings from the California healthy building study phase I. Submitted, 1992.

Book chapters:

Lessons from Love Canal: the role of the public and the use of birth weight, growth, and indigenous wildlife to evaluate health risk. In Evaluating Health at Waste Disposal Sites. Ann Arbor Science, 1983.

Lead poisoning. In Clinical Preventive Medicine: Health Promotion and Disease Prevention. Little Brown and Company, 1988.

Effects of environmental toxins on human growth. In Human Growth, CRC Press, 1989.

Government reports (primary author)

Limitations of epidemiology by concerned citizens. In Partners for Progress. Public Health Foundation, December, 1986.

Preliminary Incident Report on the Koppers-Oroville Fire. California Department of Health Services, November 9, 1987.

Morbidity and Mortality Weekly Report: Aldicarb Food Poisoning from Contaminated Melons - California, 1988.

Interim Report to the California State Legislature - Childhood Lead Poisoning in California: Causes and Prevention. California Department of Health Services, June, 1989.

Investigating Non-Infectious Disease Clusters. California Department of Health Services, January 16, 1990.

Dioxins in California: A Widespread Problem. California Department of Health Services, May, 1991.

Kids and the Environment: Toxic Hazards. A Course on Pediatric Environmental Health. California Public Health Foundation, September, 1991.

Morbidity and Mortality Weekly Report. Blood lead levels Among Children in High-Risk Areas- California, 1987-1990. May, 1992.

Government reports

A Protocol for the Identification and Management of Childhood Lead Poisoning. California Department of Health Services, May 4, 1989.

Lead Paint in California Migrant Housing Camps: Results of Childhood Lead Screening. California Department of Health Services, July, 1989.

Morbidity and Mortality Weekly Report: Earthquake-Associated Deaths - California. November, 1989.

Morbidity and Mortality Weekly Report: Clinical Spectrum of Eosinophilia-Myalgia Syndrome - California. February, 1990.

Interim Report on The Four County Study of Childhood Cancer Incidence. California Department of Health Services, May, 1990.

McFarland Child Health Screening Project. 1989 California Department of Health Services, January 1991.

Health Risk Assessment of Aerial Application of Malathion-Bait, Chapter 7: Exposure Estimation. California Department of Health Services, February, 1991.

Four County Study of Childhood Cancer Incidence: Interim Report #2. California Department of Health Services, September, 1991.

Summary of Environmental Data: McFarland Childhood Cancer Cluster Investigation. California Department of Health Services, October, 1991.

Morbidity and Mortality Weekly Report: Dermatitis Among Workers Cleaning the Sacramento River After a Chemical Spill - California, 1991. December, 1991.

Acute Health Effects of the Cantara Metam Sodium Spill. An Epidemiologic Assessment. California Department of Health Services, June, 1992.

World Health Organization, Environmental Occupational Epidemiology Series Assessment of Training Needs in Environmental and Occupational Health: A Survey of WHO Global Environmental Epidemiology (GEENET) Members, co-principal investigator 1992.

Additional
Matters:

1. If there is any additional information which you believe may be pertinent to the Members of the Committee in reaching their decisions, you may include that here.

No.

2. Do you agree to appear before all Congressional Committees which seek your testimony?

Yes.

3. Having completed this form, are there any additional questions which you believe the Committee should ask of future nominees?

No.

AFFIDAVIT

Lynn R. Goldman ss, being duly sworn, hereby states that he/she has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

Lynn R. Goldman

Subscribed and sworn before me this 9 day of September, 19 93

Shane Louise Sticks
Notary Public

7

○

Statement of
Jean C. Nelson
for Confirmation
as General Counsel
of the
U.S. Environmental Protection Agency
before the
Committee on Environment and Public Works
United States Senate
September 29, 1993

Mr. Chairman and Members of the Committee, I am honored to come before this Committee as the nominee of President Clinton and EPA Administrator Carol Browner for General Counsel of the Environmental Protection Agency. I want to give you some of my background and to discuss briefly what I would hope to do in this position, if confirmed.

I come to you with a broad range of experiences and perspectives which I believe will contribute significantly to the leadership team at EPA and to EPA's implementation of the environmental statutes that it is responsible for administering. As Chief Deputy Attorney General of Tennessee for the last four years, I was honored to have had the responsibility of heading an office of approximately one hundred very talented lawyers as we dealt with the host of challenging legal and management issues presented in that public arena. Our overall goals were to expand the proactive, initiating nature of the office; to improve the quality of the legal services through organizational changes and other office initiatives; and to enhance the opportunities for professional growth in the office. In the environmental area in particular, through working to target our efforts more

-2-

effectively, through setting up mechanisms for cooperative activities with our clients and sister agencies and through a reorganization of our work, we were better able to provide our service. The environmental cases and counselling matters I oversaw covered a wide range of environmental statutes with which EPA deals.

Prior to that time, I spent thirteen years in the private practice of law with the firm of Gullett, Sanford, Robinson and Martin in Nashville, Tennessee in a general business litigation practice with an emphasis on administrative law. In both private and public law practice, I had the good fortune to work with people of the highest integrity and abilities. They have helped me to develop what I believe to be the most important qualities of a good lawyer - integrity and judgment.

Throughout my professional life, since my graduation from Vanderbilt Law School, I have been involved in numerous public service leadership roles. Many of these roles dealt with environmental issues on the local, state and regional levels. These included setting policy for a public interest environmental law firm as well as for other environmental and conservation organizations.

I look forward to using my legal and management experiences as well as my commitment to public service to serve this Administration.

-3-

It would be a privilege to work with Administrator Browner and her deputy Bob Sussman, as well as this very talented Agency and its Presidential appointees, to support them as they carry out the critical responsibilities Congress has given them to protect human health and the environment.

I, together with the Office of General Counsel as a whole, have several jobs to do -- to support the Agency as it fulfills its statutory duties, to support the principles and priorities of the Administrator as they intersect with the law and to do all of this with professionalism and fairness.

As the author of many of the laws under which EPA operates, this Committee is acutely aware of the challenge EPA has to implement these complex statutes. One of the most important tasks of the General Counsel's Office is to help the decisionmakers in the Agency understand the range of legal options that are available to address the policy choices they must make in implementing the Nation's environmental laws.

Administrator Browner is actively pursuing ambitious and exciting priorities for the Agency. They include integrating pollution prevention into all the Agency's environmental work; strengthening the resource management of the Agency; reaching across program lines for ecosystem protection; building partnerships with state and local governments; and incorporating environmental justice into the Agency's work. She is committed to being "uncompromising about the goals of environmental protection but flexible in how we get there." It will take

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sound, creative and timely legal advice for her and the Agency to bring these initiatives to fruition and I am committed to meet this challenge if confirmed. I look forward to working with the accomplished and dedicated group of lawyers and staff in the General Counsel's Office to provide that kind of advice.

I appreciate the opportunity to appear before you and I look forward to working with the Agency and the Members and Staff of this Committee and the Congress as we all work toward the protection of human health and the environment.

Employment record: List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

- * Special Temporary Position - National Association of Attorneys General, Washington, DC; 7/12/93 - 7/30/93; general assistance with activities of the organization (except environmental activities).
- * Chief Deputy Attorney General - Tennessee Attorney General's Office, Nashville, TN; 10/28/88 - 7/2/93 (the first approximately six months as Associate Chief Deputy).

Employment record—Continued

- * Chief of Staff for Mrs. Gore, Clinton - Gore Campaign; 7/92 - 11/92; location: traveling.
- * Partner, Gullett, Sanford, Robinson & Martin, Nashville, TN; 1975 - 1988 (as Associate for approximately first four years); Summers 1973 & 1974; lawyer in general practice with emphasis on administrative law and general business litigation.
- * Tennessee Campaign Manager, Gore for President Campaign, Nashville, TN; 1/88 - 4/88 (on leave of absence from law firm).
- * 1970-1972 a series of short term positions including:
 - (a) Committee Bill Clerk for Speaker of House, State of Tennessee, Nashville, TN; 1972.
 - (b) Marketing Project Assistant, Third National Bank, Nashville, TN, 1972.
 - (c) Tour leader, Clara Laughlin Tours; 1971.
 - (d) Traveling Secretary, Kappa Alpha Theta National Sorority, traveling throughout U.S.; 1971 (3 months).
- * Assistant, Price-Forbes, Ltd., London, England; 1969-70; Misc. projects for this insurance brokerage firm.

Honors and awards:

List significant scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Weldon White Scholarship at Vanderbilt Law School.

"Woman of the Year" Award, Business & Professional Women, Nashville, TN.

"Marvin Award" for outstanding achievement from National Association of Attorneys General.

Memberships:

List significant memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

<u>Organization</u>	<u>Office held (if any)</u>	<u>Dates</u>
* Bd. of Professional Responsibility of TN Sup Ct.	Member	1988-89
* TN Bar Association	Bd.-Mid TN Govnr; Chair Adm. Law Sec.	1987-88
* Nashville Bar Association	Board, 1st VP	1986-89
* Vanderbilt Law Sch. Alumni Bd.	Board Member	1989-92
* Metro Nashville Charter Revision Commission	Commission Mbr. & Secretary	1975-88
* Sixth Circuit Judicial Conf.	Life Member	From '93
* Lawyers Assoc. for Women	Board	1986-88
* Southern Env. Law Center	Bd./Exec. Comm.	1987-93
* Nashville, TN Greenways Commis.	Co-Chair	1991-93
* Tennessee Env. Council	Board	1985-88
* Environmental Action Fund	President, Board	1984-87

Qualifications: State fully your qualifications to serve in the position to which you have been named.

My experience in law, state government, management, environmental issues and civic activities has prepared me for this position. I have had almost 18 years of legal experience with the first thirteen in private practice with an emphasis on administrative law and the last five as Chief Deputy Attorney General in Tennessee. As Chief Deputy, I had overall supervisory authority for the management of this office of as many as 110 lawyers. My work included active leadership in management initiatives and the substantive legal positions taken by the office as a whole on the broad range of issues affecting state government. In the environmental area, it included supervising the handling of some of the environmental suits, other major issues and the development of an enforcement program to complement the environmental defense and counseling functions of the office.

For the last 10 years, I have been involved in environmental issues as an advisor, activist and lawyer serving as an officer and on the boards of local, state and regional environmental organizations. I have had a number of other leadership opportunities in civic activities.

Future employment relationships: 1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

I have already done so.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

I have no such plans.

3. Has anybody made a commitment to you for a job after you leave government?

No.

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

Not applicable.

- (b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

No.

- (c) If you have previously held any Schedule C or other appointive position in the Executive branch, irrespective of whether the position required Congressional confirmation, please state the circumstances of your departure and its timing.

Not applicable.

Financial
Statement:

1. Attach a copy of your Executive Personnel Financial Disclosure Report (SF 278).
2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF 278, Schedule A.

None. If confirmed, I will dispose of the profit-sharing and pension plans from my former law firm and acquire permissible IRA assets with the proceeds.

3. Are any assets pledged? (Add schedule).

No.

4. Are you currently a party to any legal action?

No.

5. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain the circumstances.

Yes.

6. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

No.

- Potential conflicts of interest: 1. Describe any financial or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest, or the appearance of conflicts of interest, with the position to which you have been nominated.

Upon confirmation, I have agreed to dispose of any stocks that may pose a potential conflict of interest.

For state and municipal bonds, I will recuse myself from specific party matters that will affect the state or municipality.

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest, or an appearance of conflict of interest, with the position to which you have been nominated.

In any case where the state of Tennessee was a participating party in litigation against EPA while I was Chief Deputy Attorney General, I will recuse myself.

4. Explain how you will resolve any potential conflict of interest, or appearance of a conflict of interest, that may be disclosed by your responses to the above items.

Issues will be resolved in consultation with the Designated Agency Ethics Official.

5. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them. For this purpose, you may utilize a statement by the relevant agency Ethics Officer.

See Attached. In the preparation of my attached letter to the DAEO, I received a briefing on the applicable laws and regulations. On September 14, I will be receiving a detailed briefing on all federal ethics laws and regulations.

Political affiliation and activities: List all memberships and offices held in, or financial contributions (in excess of \$1,000), and services rendered to any political party or election committee during the last 10 years.

Tennessee Campaign Manager, Al Gore for President-1988

Delegate, Democratic National Convention-1988

Chief of Staff for Tipper Gore, Clinton-Gore Campaign-1992

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written. (Please list first any publications and/or speeches that involve environmental or related matters.)

Vanderbilt Lawyer, article on issues related to becoming a partner in a law firm.

Vanderbilt Law School, senior paper on rape law in Tennessee and proposals for changing it.

Additional
Matters:

1. If there is any additional information which you believe may be pertinent to the Members of the Committee in reaching their decisions, you may include that here.

No.

2. Do you agree to appear before all Congressional Committees which seek your testimony?

Yes.

3. Having completed this form, are there any additional questions which you believe the Committee should ask of future nominees?

No.

AFFIDAVIT

JEAN C. NELSON ss, being duly sworn, hereby states that he/she has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

Jean C. Nelson

Subscribed and sworn before me this 10th day of September, 19 93

Michael A. Kemp
Notary Public

MICHAEL A. KEMP
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires September 14, 1997

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NOMINATIONS TO POSITIONS AT THE ENVIRONMENTAL PROTECTION AGENCY

WEDNESDAY, OCTOBER 20, 1993

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, D.C.

The committee met, pursuant to notice, at 2:03 p.m. in room 406, Dirksen Senate Office Building, Hon. Max Baucus [chairman of the committee] presiding.

Present: Senators Baucus, Boxer, Chafee, Simpson, Warner, and Lieberman.

OPENING STATEMENT OF HON. MAX BAUCUS, U.S. SENATOR FROM THE STATE OF MONTANA

Senator BAUCUS. Good afternoon. The Committee on Environment and Public Works will come to order.

Today the committee is meeting to consider the nominations of two individuals for positions with the Environmental Protection Agency. Ms. Mary Nichols is nominated to be Assistant Administrator for the Office of Air and Radiation, and Mr. Jonathan Cannon is nominated to be Assistant Administrator for the Office of Administration and Resources Management, and also to be the agency's Chief Financial Officer.

Ms. Nichols and Mr. Cannon, the President has placed in each of you a sacred trust to implement the laws which protect our environment. The American people will be looking to each of you to help fulfill their hopes and desires for a clean environment for themselves, for their children, for their neighbors, and for future generations of Americans. They will be looking to you to break the gridlock that continues to thwart many of our efforts to provide a cleaner, healthier environment.

These tasks will not be easy, but they will be very important.

Our environmental laws have brought great progress during the past 20 years, but we still have a long way to go before we can say that we have provided a safe and healthy environment for all Americans. The air in many of our cities is still dirty. We still have toxic waste dumps that have not been cleaned up. We still have rivers and lakes that are not safe for fishing or drinking. We must do better in all these areas.

Moreover, we need to finally dispel the myth that a clean environment must come at the cost of a sound economy. We need both, and we can have both. The American people want changes in our way of doing business. They want—and even demand—changes

that will improve both the economy and the environment, i.e., sustainable development.

If confirmed, it will be up to each of you to bring change to the EPA and to our environmental protection programs. As part of this change we need to adopt a more integrated approach to environmental protection. We cannot view each specific environmental problem as an "air problem" or a "water problem" or a "solid waste problem." These are all aspects of a single larger problem of providing for a clean environment. The EPA must do a better job of presenting to the public a coherent and consistent approach, an integrated approach, to environmental protection.

I am pleased to see that Administrator Browner has already begun to integrate EPA's various programs through her reorganization of the Enforcement Division. Each of you has been nominated to programs that sorely need change.

Ms. Nichols, so far the implementation of the Clean Air Act Amendments of 1990 has not been a high enough priority at the EPA. Many important statutory deadlines in the act have been missed. Unless action is taken to put the program back on track, other deadlines also will be missed. This will further erode the confidence of the American public in the ability and the determination of EPA to carry out the law.

Several features of the Clean Air Act Amendments of 1990 represent the type of bold, innovative approaches to environmental protection that should be encouraged. We need to make sure that in the future, the Clean Air Act Amendments of 1990 will be considered a model for environmental success, rather than another environmental program that failed to live up to our national expectations.

Ms. Nichols, I hope you will be able to make this statute the type of success that the Congress and the American people can be proud of.

Mr. Cannon, EPA's Office of Administration needs change as well. There have been many criticisms in recent years regarding EPA's use of contractors and its management of those contractors. We have heard too many reports about improper billings of EPA contractors. We have heard too many reports about contractor conflicts of interest, and we have heard too many reports about the use of contractors for what should be inherently governmental functions.

Mr. Cannon, if you are confirmed it will be your responsibility to oversee the EPA's use of contractors. It will be your responsibility to be sure that EPA's resources—the resources of the American people—are wisely spent and not wasted or used improperly.

It will not be easy for either of you to meet these challenges; it is, nonetheless, imperative that you do so. The President, EPA, the Congress, and the American people will be counting on you. If you are confirmed, I look forward to working with both of you. I pledge my cooperation to help you with this important job.

I would now like to turn to our very able and energetic and talented member of our committee, the Senator from California, whom I think has an introduction to make.

OPENING STATEMENT OF HON. BARBARA BOXER, U.S. SENATOR
FROM THE STATE OF CALIFORNIA

Senator BOXER. Thank you very much, Mr. Chairman.

It is in fact a great pleasure for me to be introducing my friend, Mary Nichols, officially to the committee.

I would also say that if I leave early, it's not because I didn't want to stay for the whole meeting. I am also introducing a woman by the name of Diane Frankel, another Californian, who has been nominated as Director of Museum Services, and that's down the hall at another committee. So I will stay with you as long as I can.

Mr. Chairman, I am proud to be able to call Mary Nichols a friend and a former colleague on clean air issues. We go back so long; when I met her and worked with her, neither of us had any of these gray hairs.

I am delighted that the President has had the tremendous insight to bring her here to Washington to continue her work.

When Mary was the State of California's Secretary of Environmental Affairs and Chair of the California Air Resources Board in the late 1970's and early 1980's, I was serving as Chair of the Bay Area Air Quality Management Board, so we worked together on clean air issues at that time. Mary has been a tough fighter for cleaner air in California, and I can personally testify that she is superbly qualified for the clean air job at EPA.

Mary's professional involvement in clean air issues goes back to 1971. Before she served in State government, she served as a member of the California Air Resources Board. Throughout her career she has written and spoken extensively on the Clean Air Act and other environmental topics.

For the last four years Mary has been a senior attorney for the National Resources Defense Council in Los Angeles. During that time she worked on a variety of air issues, including the development of the Clean Air Act Amendments of 1990 that so many of you worked so hard on over on this side.

Besides graduating from Cornell University and Yale Law School, Mary has received numerous awards and honors for her work. This year the California Legislature named her Woman of the Year, and I can tell you, Mr. Chairman, they don't agree on much, but they agreed that Mary Nichols was deserving of this honor.

I could truly say to my colleagues who are here, this is a woman who understands the political process, as well as understanding the science she needs to understand. This indeed is a good and rare combination, and I know right now we're having problems in California with meeting the air quality standards in a way that makes sense. Mary is in the middle of that, trying to help resolve that. I know once she gets this appointment, she'll be able to help the whole country.

I thank you very much, Mr. Chairman, for the honor of introducing Mary Nichols.

Senator BAUCUS. Thank you, Senator Boxer.

I would like to turn to the ranking member of the committee, the Senator from Rhode Island.

Senator CHAFEE. Thank you, Mr. Chairman. I am delighted to have the opportunity to listen to these two nominees, and I will be here as long as I can.

Senator BAUCUS. Good.

Do you have a statement, Senator Simpson?

**OPENING STATEMENT OF HON. ALAN K. SIMPSON, U.S. SENATOR
FROM THE STATE OF WYOMING**

Senator SIMPSON. Just briefly, Mr. Chairman.

I appreciated hearing the remarks from my colleague, Senator Boxer, who knows this person, and that's helpful to have that view. I appreciate it.

It is a very critical post that you go to, and Senator Baucus and I and Senator Chafee and others, before Senator Boxer joined us, worked long and hard on the Clean Air Act. You've been involved in it a long time. Do you remember what Senator Hart was trying to do with the Clean Air Act Commission? You saw us do nothing for 10 years; everybody pounded their chests and moped around and said, "We need a better bill," and we didn't get anything for 10 years. Most extraordinary. We finally had to beat back the extremists on both sides, which is what we spend most of our time doing in this committee.

I just say to you that I hope you have a good perspective and an open mind on the issues of the west and air quality, because we have the most pristine air quality. In my State we have pristine air quality and produce more coal than any State in the Union. Much of our coal is going to plants that are using low-sulfur coal to reduce acid rain emissions. Tomorrow we will have a hearing on that. We're finding that some States are using State laws to prevent the use of that type of coal as a compliance strategy, and that flies fully in the face of the act that we worked so hard to put together.

I can visit with you on those things without taking the time of the committee, issues of fugitive dust, which seems to be very difficult for people in Washington to understand, that you probably do have a little fugitive dust when the wind blows 60 miles an hour for six days. There's a very definite thought that you could have some fugitive dust, without any question, coming from somewhere. Here you have the highest coal production in the U.S. and the best air quality, and we still have modeling techniques going on over there in the EPA that don't even recognize what the realities of the west are.

I hope you do. I don't want to be totally provincial; I know you have a remarkable background and a remarkable record, and I look forward to visiting with you on the issues of air quality and fugitive dust and dual regulation of radionuclides—I had a good visit with Carol Browner the other day; I think she's a very thoughtful woman. She listens to us. She has had problems that she's addressed as a State administrator. The President has been a State administrator, a governor, and knows some of these issues.

So I look forward to meeting with you. I know we will do that soon and we will discuss these issues. Welcome to the committee. It's nice to have you here.

Thank you, Mr. Chairman. I appreciate it.

Senator BAUCUS. Thank you, Senator.

Senator Warner, do you want to introduce one of the witnesses?

**OPENING STATEMENT OF HON. JOHN W. WARNER, U.S. SENATOR
FROM THE COMMONWEALTH OF VIRGINIA**

Senator WARNER. Yes, I would be very happy to do that, if I may. As I understand, Senator Boxer introduced her nominee, and I will follow your suit and do it from this position, Mr. Chairman.

It is a pleasure for me to introduce Jonathan Cannon, President Clinton's nominee as Assistant Administrator for Administration and Resources Management at the agency. He will also serve as the agency's Chief Financial Officer.

Mr. Cannon is accompanied this afternoon by his wife, Alice; his son, Benjamin; and his father-in-law, Lewis Purnell. We ask if you would stand up so that we might recognize you.

Mr. Cannon brings an impressive range of Government and private sector experience to his position. His tenure at EPA dates back, Mr. Chairman and members of the committee, to 1987, when he served as Deputy General Counsel. He also served as Deputy Assistant Administrator in the Office of Enforcement and Compliance Monitoring; Deputy and Acting Assistant Administrator in the Office of Solid Waste; and Acting Assistant Administrator in the Office of Policy, Planning, and Evaluation.

Mr. Cannon's command of agency policies and programs makes him very well suited for the responsibility he is about to assume.

I have also noted in his testimony that he will be responsible for securing a new headquarters building for the agency, a program that I and the chairman and the ranking member and others of the committee have been very active in for some time. We urge you to proceed forthwith; you shall have the support of this committee.

Given your long tenure with the agency, I think you are ably qualified to get that new building, based on what you've suffered these many years.

We welcome you and we welcome your family.

Senator BAUCUS. Thank you very much, Senator. I want to chime in on that last statement. When I became chairman of this committee earlier this year, I took it upon myself to go over and walk through and spend some time with—

Senator WARNER. Did you get stuck in the elevator?

Senator BAUCUS. I had a hard time finding my way around. Frankly, I was quite put out with the accommodations over there. EPA personnel are doing the best they can under extraordinary circumstances.

Senator WARNER. I share the Chairman's view.

Senator BAUCUS. It is incumbent upon the Government to find a suitable location as quickly as possible so that the personnel can work under much more habitable conditions.

Ms. Nichols, would you please introduce your family?

Ms. NICHOLS. Thank you very much, Mr. Chairman.

Senator BAUCUS. And would you each please stand and stay standing until all are introduced?

Ms. NICHOLS. All right. I've only brought three members here today. My father, Ben Nichols, who is the Mayor of Ithaca, New York, is busy campaigning in a tough reelection campaign and couldn't make it here.

Senator BAUCUS. We wish him well

Ms. NICHOLS. Thank you. My son, who is at Cornell, had a prelim today. But I have been able to gather together my daughter, Margaret Daum, who is a sophomore at Phillips Exeter Academy in New Hampshire; she's here on a day pass and has to go right back this afternoon. My husband, John Daum, who has moved to Washington with me to take up this challenging new life, and my brother, Jeffrey Nichols, who is a physician in New York City.

Senator BAUCUS. Well, thank you. I understand, Margaret, that several times you have had to arrange for passes, with the delays that we've experienced.

[Laughter.]

Senator BAUCUS. Thank you all very much. We know how proud each of you is.

Let me first turn to you, Ms. Nichols, for your statement, then Mr. Cannon, then we'll have questions.

STATEMENT OF MARY D. NICHOLS, TO BE ASSISTANT ADMINISTRATOR, OFFICE OF AIR AND RADIATION

Ms. NICHOLS. Thank you, Mr. Chairman and members of the committee. I have a prepared statement which I will not read to you in its entirety.

Mr. Chairman and members of the committee and Senator Boxer, thank you so much for that warm introduction. It makes me a little homesick, actually, but I am very glad to be here and really honored that President Clinton and Administrator Browner have asked me to take up the challenge of implementing the Clean Air Act Amendments of 1990.

Mr. Chairman, in your introduction you used the term "sustainable development." I would just like to echo that term is exactly the goal that I am trying to live up to if I am given the opportunity to serve as the Assistant Administrator of EPA.

There are several principles that I have garnered over my years of working in the air pollution control field, both as a private attorney, as an environmental activist, and as a State official. First of all, I think that the Clean Air Act Amendments that this committee passed in 1990 after the struggle that Senator Simpson alluded to are critical to providing the framework for not only healthful air, which I believe Congress has given the people of the United States a guarantee that they will finally achieve at some point in our lifetimes, but also to maintain and preserve some of the pristine air quality that those of us who have had the opportunity to live in the west have enjoyed.

But in order to do that, we have to regulate in a way that is consistent with preserving American business and American jobs. Our regulatory system is going to have to provide not only flexibility but also opportunity for businesses to exercise their creativity in helping us develop technologies that not only will do the job in terms of cleaning up the air, but that also can strengthen our econ-

omy and help us to contribute to the development of other countries abroad.

Finally, I think that we have to be constantly rethinking our air programs as we go along. Despite the fact that none of us wants to reexamine the fundamental framework of the law, the reality is that we keep learning new scientific information, new technologies, and new ideas about how to regulate and how to use economic tools. New information keeps on coming our way, and we have to find ways to take advantage of it and incorporate it into our regulatory framework.

I've had the opportunity over the past couple of months to meet with many members of this committee staff and a number of the Members to have an opportunity to learn some of what your concerns are and to get briefed by the staff at the EPA, as well. I would like to let you know that I am sincerely impressed by the talent, the commitment, and the dedication of the staff of the air program at the EPA. I believe that these people are highly qualified, highly competent, committed people and that they will be very responsive to political leadership. I will be proud to be associated with them if you confirm me to this position.

Finally, I would just like to say that I am looking forward very much to working with the members of this committee and your staff as we move forward. The hard job of implementing the 1990 amendments is really before us. We've had two years in which—as you mentioned, Mr. Chairman—there was not much progress; some, but perhaps not as visible as what lies ahead. But many of the deadlines under the act are now starting to come due, and many critical issues are being raised, not only in my home State of California but around the country as States find they are having difficulty responding to a number of the tough mandates that are in the law. We are going to be more and more faced with difficult situations in which potentially we will have to be talking about using some of the sanctions under the act.

We will need to be in communication and to have your help and support as we move forward in trying to do so fairly, but also with commitment to the integrity of the act. It will be an honor and a privilege to work with you in that capacity.

I thank you very much for giving me the opportunity to appear before you today.

Senator BAUCUS. Thank you very much, Ms. Nichols.

Mr. Cannon?

STATEMENT OF JONATHAN Z. CANNON, TO BE ASSISTANT ADMINISTRATOR, OFFICE OF ADMINISTRATION AND RESOURCES MANAGEMENT AND CHIEF FINANCIAL OFFICER

Mr. CANNON. Mr. Chairman and members of the committee, it is obviously an honor for me to be here today as the nominee of President Clinton and Administrator Browner to be Assistant Administrator for Administration and Resources Management—one of the longer titles at EPA—and, more bureaucratic-sounding, but I think we have important responsibilities, as the Chairman has pointed out, and important contributions to make to EPA's mission.

I appreciate your having me here today and appreciate Senator Warner's introduction. As he mentioned, I am a member of the Senior Executive Service at EPA and have now been at the agency under three Administrators.

From the perspective of one who was already there at EPA when Administrator Browner arrived, I can say that it's an exciting time to be at EPA these days. Our mission has been reaffirmed, and there is a strong emphasis on management. The American people are asking that we manage better in order to ensure the integrity of our programs and in order to improve the results for the environment that we are able to obtain with the resources that we are given. At the same time, we are being asked to manage more efficiently.

Mr. Chairman, as you noted in your introduction, there are acknowledged problems with contracts at EPA. They have been identified in a series of IG audits over time. There are also some comparable problems in the grants area. About two-thirds of our budget at EPA goes out in contracts and grants every year, so these are very important areas to manage and to manage well.

Administrator Browner has taken a strong approach to addressing these problems. We have a program moving forward now that stresses increased management and accountability for contracts management. If I am confirmed, I pledge my support to the Administrator and will devote my full energies to solving these problems and getting them behind us.

The management challenge at EPA, however, is broader and deeper than contracts and grants. We are being challenged in every aspect of our work at EPA to measure our efforts against results. Are we spending the scarce dollars that we have to the best advantage in achieving our environmental goals? Are we wasting or misdirecting funds that would help achieve environmental results?

In short, we are being asked to combine our traditional pursuit of mission with sound management.

The Office of Administration and Resources Management, which I would head if confirmed, has a broad range of management functions, everything from contracts and grants, which we've discussed, to budget formulation and execution to information management systems to facilities, including our much-hoped-for building. I want to say to you, Mr. Chairman, and to other members of the committee, how thankful we are for your support in our efforts to get adequate and usable space for our employees so that they can do their jobs.

These responsibilities of OARM are, I think, crucial to being able to pull together mission and management in the way that we would like, and I would promise, if I am confirmed, to bring the full weight of my experience and abilities in order to accomplish that integration.

With that, let me close and say thank you again to the committee. I make myself available for any questions that you may have.

Senator BAUCUS. Thank you very much, Mr. Cannon.

I have two obligatory questions that I must ask each of you. Both of you can answer this question.

Are you willing, at the request of any duly constituted committee of the Congress, to appear in front of it as a witness?

Ms. NICHOLS. Yes.

Mr. CANNON. Yes.

Senator BAUCUS. Do you know of any matters which you may or may not have thus far disclosed which might place you in any conflict of interest if you are confirmed in this position?

Ms. NICHOLS. I'm not aware of any.

Mr. CANNON. Only those matters that I have fully disclosed to the committee.

Senator BAUCUS. Thank you.

Ms. Nichols, the question I have for you is one of resources; that is whether, in your judgment, EPA has sufficient resources to do the job within the jurisdiction that you would have as Assistant Administrator for Air Programs. Administrator Reilly and Administrator Browner have testified before this committee that they both believed at that time—certainly at the time when Mr. Reilly was the Administrator—that the agency does have sufficient resources to do the job, meet the deadlines, and get the work done on time.

On the other hand, the General Accounting Office recently reviewed EPA's resources and compared them with the obligations that EPA is to conduct under the statutes, and various environmental groups also believe that the EPA does not have sufficient resources.

Does EPA in your view, particularly in the jurisdiction of your program, have sufficient resources? Remembering that the budget has not been increased proportionate with the workload, at least as required by Congress.

Your view, please?

Ms. NICHOLS. Mr. Chairman, I have had an opportunity only to begin to learn the full implications of EPA's budget and to begin to follow the appropriations processes here. I am certainly aware that appropriations have not always lived up to the requests, and that seems to be the case with the 1994 budget that is coming along, as well.

I am concerned about the issue. Clearly, one of the areas where we do have some problems is in the use of contractors to do regulatory preparation work. We are seeking flexibility in that area, and I am hopeful that will be something that we will be able to look at over the next year or two.

But I would say that I believe there are opportunities to manage better the resources that we have in the program, as well. That is, I'm not prepared to say to you today that we can't do the job that the act requires of us because we don't have the resources to do it. I don't think that's the case. I think it's going to be very tough, but I honestly believe that as of this moment we are prepared to move forward expeditiously on all the areas that the act requires of us with the resources that we have.

Senator BAUCUS. You should know EPA pretty well. You've been dealing with that agency in various capacities from the outside. You probably have some fairly well-formed views as to what works and what doesn't work at EPA and why they are late in meeting deadlines and so forth.

What's been going on over there? What's wrong from your perspective? Why are deadlines not being met? And another side of that question is, what are you going to do about it?

Ms. NICHOLS. Well, Mr. Chairman, I think first of all that it is important to say at the outset that my perception is that for the last decade or so there has been a lack of desire on the part of previous Administration's to comply with the deadlines, and frankly, an attitude that it wasn't terribly important or that the deadlines that really mattered would be enforced by court order. I think there were problems in the relationship between EPA and the Office of Management and Budget where, even when the agency was making an effort to comply, things were either slowed down or sent back or redone in order to satisfy objections that were raised there.

As Administrator Browner testified before this committee a couple of weeks ago at your oversight hearing, because of the new Executive Order and new working relationships that are being developed between the agency and OMB, we are quite hopeful that area—that particular gap—is going to be close substantially. I think we already see some evidence that's happening.

I do think that delay can be caused by a simple lack of willingness to face tough decisions. In that regard, I can personally commit to the committee that will not be a cause of delay in meeting the deadlines.

Senator BAUCUS. In addition to a lack of desire, though, are there any other structural problems, for example, in the agency?

Ms. NICHOLS. Well, as you know, Mr. Chairman, the Administrator has convened a working group within the agency to look at the whole question of regulatory development and the process and to see if there are ways that it can be streamlined and improved. I have some thoughts about that. I believe that too often there are too many layers of management review at the end of the process, as opposed to meaningful consultation at the beginning of the regulatory process, and then a commitment to allow things to move forward.

I think there is also, perhaps, in the area of approvals of things like SIP amendments, an unwillingness to meaningfully delegate decisions. I think in both of those areas we can make some real improvements.

Senator BAUCUS. Well, how long will it take you to have in place the changes that you think are necessary?

Ms. NICHOLS. I am very hopeful that, if I am confirmed by this committee and by the Senate, I will be able to put together a new procedure on several different key issues within the air program within 90 to 120 days. I can't speak for the rest of the agency and its overall review process, but I believe that within my own program we will have some reforms in place that will be there promptly.

Senator BAUCUS. I don't want to press you or encourage you to act too hastily rather than to do it right, and do it right the first time—which is to say, I would appreciate it if you could give me a date by which you think you will have in place the changes that you think are appropriate, so that you can report those changes to this committee at an appropriate oversight hearing so that we can

be in a position to explore them with you. It would be helpful if we had a date. I'm not pushing you for 90 days or 120 days, but I am pushing you for a certain number of days or a certain number of months that you think is reasonable so that it would give us both a chance to assess how we're doing.

Ms. NICHOLS. Well, Mr. Chairman, the reason why I gave you such a short period of time was that I have received a number of suggestions and comments from people on the staff already who have come forward with good and creative ideas, just in the time that I've been back here serving as a consultant. But I think six months from the time that I'm in office would be a reasonable time to call me back here and ask for a report on what changes have been made.

Senator BAUCUS. Before I turn to Senator Chafee, you say that you think you have sufficient resources, based upon the information you now have, to get the job done?

Ms. NICHOLS. As of this moment, I think we will be able to come into compliance with the deadlines within a reasonable period of time with the resources that we have. I think that I will have to ask for your indulgence and some more time before I give you a specific answer that says that we absolutely can do everything that we want to do with that; certainly, we can't, but—

Senator BAUCUS. Based upon the information that you now have, you think that you can by and large do it?

Ms. NICHOLS. I think so.

Senator BAUCUS. Thank you.

Senator Chafee?

Senator CHAFEE. Thank you, Mr. Chairman.

Ms. Nichols, I found your testimony a little confusing. You started off by saying what wonderful people you are working with over there, and then you proceeded to say that the failure to meet some of the deadlines is just a lack of will to do it.

How do you explain those seeming contradictions?

Ms. NICHOLS. Well, Senator Chafee, it's my belief that frequently proposals have been floated up and floated back down and gone through repeated reviews within the agency, as well as struggles between the agency and OMB. I think the staff has been attempting to respond to policy direction that they were given, but frequently the direction that they were given was either confusing or was designed not to move forward in accordance with the deadlines. I don't believe the staff were deliberately refusing to meet deadlines; they are working hard. Clearly people are stretched in trying to comply with all the deadlines they're given, but if in addition procedural roadblocks are put in their way, or people are made to feel that they are not able to make decisions because they will be subjected to scorching reviews later on down the road, that makes it very difficult for them to do their jobs.

Senator CHAFEE. So your criticisms are principally directed at Mr. Rosenberg, your predecessor, and Mr. Reilly and others, who were in Presidentially appointed positions?

Ms. NICHOLS. Yes. I am not personally familiar with the day-to-day actions of those gentlemen, but, I think one can criticize political direction fairly. I think it's also fair to say that over a period of time there have been cultural changes or attitudes that have been

built into the way that the agency operates which include an attitude that the deadlines are not the most important forcing function for activity; that "the deadlines are there, but since we've missed so many of them, well, let's not respond until we're ordered to do so by a court because it's just too hard." It sometimes takes new leadership to tell people that we're going to have to find ways to come into compliance with those deadlines.

Senator CHAFEE. Ms. Nichols, it seems to me you put yourself out on the end of a limb here. You have criticized your predecessors for lack of desire, that they would not do anything until they responded to a court case. You are yourself going to be under the gun for producing a whole series of timely actions, and I will be curious to see how well you do.

I might mention that I've been around here for a while and I don't think I've ever seen any Administration take as long to get a nominee up here as it took to get you. Here it is, 10 months, and you're not even sworn in yet, in fact your just appearing before this committee.

So I would go gently as far as criticizing your predecessors on timeliness.

I noticed in the major issues here that one of the things that is required from your office—or at least that has taken place during the past two years, since implementation of the Clean Air Act—is to provide some 25 reports to Congress. I will tell you what I've told others. I find that in this committee and elsewhere in Congress, we freely impose requirements on your department to produce reports; it's a nice way out of a difficult problem, particularly if you want to forestall some legislation. We say, "Well, let's have a report on it," so you are given the burden to produce reports.

I would be curious and anxious to be helpful to your department if you would come forward and tell us what reports you think are useless and needless, because I am sure there are many of them. I can nearly guarantee you that when they get here, they're not read. So after you've been there for a while, a year or so, if you would like to come up to this committee with a list of reports that you think are needless, and impose a burden on you and your colleagues in the EPA, we would be glad to be helpful in trying to forestall those reports.

Ms. NICHOLS. Thank you.

Senator CHAFEE. We haven't asked Mr. Cannon any questions yet.

Senator BAUCUS. We're getting there.

Senator CHAFEE. Well, Mr. Chairman, I have to go. I just want to welcome Mr. Cannon.

It's a little hard for Mr. Cannon to be too critical of what has taken place over there, since you were part of it.

[Laughter.]

Mr. CANNON. I think I've been careful, Senator.

Senator CHAFEE. Well, maybe Ms. Nichols' shots were directed at you.

[Laughter.]

Mr. CANNON. I've not been in the air program.

Senator CHAFEE. Well, she had broad scope in her shot.

Mr. CANNON. I'm sure some of that responsibility falls on my shoulders.

Senator CHAFEE. Well, we are glad you're here. We will look forward to working with you.

Ms. Nichols, you have set a high standard for yourself. We know where to turn if something goes wrong over in that department as far as timeliness.

Thank you, Mr. Chairman.

Senator BAUCUS. Thank you very much, Senator.

Senator Warner?

Senator WARNER. Thank you, Mr. Chairman.

Mr. Cannon, again I would like to comment that it was a privilege for me to introduce you today. You represent the type of individual, having bridged Administrations, that clearly shows that this nomination by the President is based on merit and ability. That's not to suggest that Ms. Nichols isn't likewise here on merit and ability. I think that's to your credit. You will bring the corporate knowledge with you to the workings of this important Administration. The citizens of this country are grateful that you and your family are willing to take on this contingent public service.

Mr. CANNON. Thank you, Senator.

Senator WARNER. Ms. Nichols, I was looking over your letter of September 20th of this year to Mr. Yamada, the Acting General Counsel, which is in the nature of a recusal letter, indicating that because of your affiliation with a very distinguished organization, how you would conduct yourself, if confirmed by the Senate.

In paragraph 4 you said,

The recusals described in paragraphs 2 and 3 do not extend to rulemaking, policy, or legislative matters in which any of these entities is interested, or in which they may provide comments.

Could you expand on that for the committee, why you made that decision?

Ms. NICHOLS. Senator Warner, after conferring with the ethics officials at EPA and looking over previous recusals by other Assistant Administrators at the agency, I concluded that in broad-based rulemaking matters where NRDC is one of a number of parties expressing views, that was not likely to put me in a position where I would feel that I had a conflict of interest. Obviously, that doesn't pertain to specific matters.

Senator WARNER. And the General Counsel said that there was precedent for that type of recusal?

Ms. NICHOLS. Yes, he did.

Senator WARNER. Can you provide some insight into what issues involving the NRDC in which you will not participate as an Assistant Administrator?

Ms. NICHOLS. I think at this point, and for at least a period of a year, I would not be able to participate any matters in which I, certainly, was involved as a staff person at NRDC, and I would prefer not to be involved in discussions about settlement of any litigation that was filed.

Senator WARNER. I think that's to your benefit, and also to the benefit of the NRDC because, as I say, that organization has contributed—albeit in some areas with a good deal of controversy from

time to time, but that has to be done. So I think it's a protection to you and your career, the agency, and the NRDC.

It's my understanding that the NRDC has 12 active lawsuits pending. Will you recuse yourself from these cases or rulemakings that may result from these cases?

Ms. NICHOLS. I certainly intend to recuse myself with respect to the litigation.

With respect to the rulemaking, I believe that on a case-by-case basis, after consulting with the agency's General Counsel, we would decide whether it was appropriate for me to continue or to begin to be involved in those regulatory matters. Some of them are so broad-based that I think it would not be inappropriate or difficult for me to be able to fairly participate.

Senator WARNER. But you will always have a consciousness in each of your actions, if there is a doubt, to step out?

Ms. NICHOLS. Yes, Senator. I think it is really very important, both for me and for the credibility of the program, that people understand that I am there to be serving the agency, not in my capacity as a former staff person.

Senator WARNER. And that's to the benefit of your former organization. You've devoted a good deal of your life to the organization. It should and will remain an integral part of the infrastructure outside of Government to protect certain interests in which they have goals.

So this is just a little helpful advice from someone who sat in that seat three times to be confirmed by the Senate.

Ms. NICHOLS. Thank you.

Senator WARNER. I guess I'm still alive and not in jail.

[Laughter.]

Senator WARNER. Good luck to you.

Thank you, Mr. Chairman.

Senator BAUCUS. Thank you very much, Senator.

I would like to turn to the chairman of the subcommittee on Clean Air and Nuclear Regulation, who has held many oversight hearings on the Clean Air Act, Senator Lieberman.

Senator LIEBERMAN. Thank you, Mr. Chairman. I am glad to welcome Ms. Nichols and Mr. Cannon.

Mr. Cannon, let me just share in the appreciation for your appointment, and that particularly as the Vice President focuses on the reinvention of Government that he will have, through you, someone at EPA as a partner who enjoys the respect of those who work in EPA because you have come from them, as it were. And I think that will make his job easier, and I wish you well in all that work.

Mr. CANNON. Thank you, Senator.

Senator LIEBERMAN. Ms. Nichols, it's good to see you.

I'm not surprised, if I may go back to something that was said earlier here, that you have set high standards for yourself, and I appreciate the setting of those high standards. Your whole career speaks to that. You are from California, but I take a parochial interest in you because you spent three years of your life—I hope I'm not jeopardizing your nomination here—three years of your life at Yale Law School.

[Laughter.]

Ms. NICHOLS. Three of the best.

Senator LIEBERMAN. Right. And you've gone on from there as a reporter, as an attorney, as a public servant, the California Air Resources Board, NRDC—a pretty remarkable record. There may be somebody more suited for this job in America, but I can't name that person offhand because you have, in fact, spent a good part of the last 20 years involved with the Clean Air Act. You particularly bring the perspective from the State and local level, which is so critical in this next stage of work, so I am delighted to see you here.

I want to ask you a few questions about that. Perhaps before I came in there was some discussion about the reaction of the State and local air pollution regulators, whom we've heard at hearings here, including before my subcommittee; and there has been some criticism, as you know of EPA's implementation. One particular case is Title I; we had a hearing on this last August, the nonattainment provisions. Some of that had to do with timeliness; some of it had to do with the substance of the regulations. I guess in a general sense my question is, knowing this state of attitude out there at the State and local level from which you come, what plans do you have for addressing those concerns of State and local officials?

Ms. NICHOLS. Well, Senator Lieberman, I think that in the past couple of years—actually, long before I got to EPA—there has been a considerable of progress at the staff level, I think, in developing relationships, particularly with respect to Title V and also Title III of the act. I have attended several meetings since I've been on board as a consultant that have involved State and local officials talking through some of these rather thorny areas of overlapping jurisdiction and potentially very difficult meshing of deadlines. And I feel that at the working level, progress is being made, but I think that there is definitely more that can be done in this regard. I am looking forward to going out and meeting personally with many of the air officials over the next few months to talk about some of these issues.

But perhaps one of the strongest values that Administrator Browner and I share, and one of the things that we talked about when she first invited me to come back to EPA, is a sense that the Clean Air Act is a law that sets a fundamental baseline of health protection and has the specific mandates in terms of deadlines to give the States "backbone," if you will, or the incentive, sometimes, to take actions that may be difficult to do; but at the same time, it is intended to provide the maximum amount of flexibility to the States to get there by their own means and to be as innovative as possible.

My perspective over the years, working at the State level, is that with all the best intentions in the world, sometimes technical staff working in Washington or in North Carolina are perhaps not as familiar as they could be or should be with the ways in which these things are being approached out in the country. I am hoping to be able to bring some of that perspective back here with me.

Senator LIEBERMAN. Good. I appreciate the answer. I particularly appreciate your willingness to go out into the field because I think that will be important.

Let me ask a final question as time goes on, which is this. As you well know, we are coming to a point, in terms of implementation of the Clean Air Act, where some people may begin to be pinched a bit. In other words, people are going to have to begin to live with the law that we've all praised, because it's going to clean our air. This may be a time when it will be very difficult to hold the ground, but important to do so, and particularly important to remind the public of why we adopted the Clean Air Act. I wonder if you've thought at all about your role as what might be called a "public educator" on the purposes of the law.

Ms. NICHOLS. Well, yes, Senator, I have actually been giving that quite a bit of thought as I have watched some of the controversies that have already begun to flare up as the agency has been moving forward on implementation, for example, of the inspection and maintenance legislation.

I think that in the past, perhaps, we have been able to rely on environmental organizations or others to carry most of the burden of keeping public attention focused on the need for some of these measures. I think the agency, without undercutting the efforts of private organizations, needs to reach out more. One of the things I have been encouraged by is the willingness on the part of many in the regulated community, also, on a case-by-case basis—particularly thinking now about inspection and maintenance—to join in in support of the need for strong programs in that area. Obviously, there is a reason from a self-interest point of view, but at the same time there is also the realization that clean air is a project to which everyone must contribute, and if we can build alliances with those who will support us in one difficult area, then maybe that will help tide us over in another.

So I think that the public education role is going to be more important in the next couple of years, and I will be looking for effective ways to do it. I would definitely welcome help and suggestions from the committee.

Senator LIEBERMAN. I appreciate your answer and look forward to working with you. Thank you.

Ms. NICHOLS. Thank you.

Senator BAUCUS. Thank you very much, Senator.

Ms. Nichols, following on to some degree on the last question by Senator Lieberman, what do you believe EPA's role should be in the contest—the dispute, somewhat—now between the auto industry and the eastern States that are considering the California car program, the clean, low-emission vehicle program? As you know better than almost anyone else in this room, California requires, I think by 1998, a percent of its vehicles to be zero emissions; and other States, particularly in the northeast, are considering adopting the California low-emissions vehicle program. The auto industry, as you also know, has joined a consortium with the Federal Government to develop a zero-emission vehicle. Now, coming to those States and saying, "Gee, give us a break; don't enact the California car provisions, give us time," and so forth—what is EPA's role in that matter? Does EPA have a national environmental role to push aggressively to clean up the air, to push those States to go ahead anyway? What's EPA's role, in your view?

Ms. NICHOLS. First of all, I think it is important to recognize historically that Title II of the act, the cleanup of the automobile has been the single biggest contributor to the progress that we've made as a Nation over the last 20 years in cleaning up our air. So there's just no question about the critical importance of moving forward with implementation of the best possible automotive emission standards.

The interplay between the California standards and the Federal standards is a complicated one. When I was a regulator in California, I was proud and pleased to be able to move ahead of where the Federal Government was in some of our programs because we knew that, as 10 percent of the automotive market and as a State that was large enough and committed enough, and that frankly needed the extra push, we would be able to sustain some experiments that perhaps wouldn't be justifiable on a cost basis or a technology basis for the rest of the country. So we were able to take risks and were pleased to be able to demonstrate technologies that then went on to be applied throughout the rest of the country.

I know that the California low-emission vehicle program was enacted in that same kind of spirit, not necessarily with the intent that it be applied everywhere.

Senator BAUCUS. We're not talking about California now; we're talking about the other States.

Ms. NICHOLS. Then just to move on to where we are right now, a number of other States have expressed an interest in adopting those California standards. I think that EPA's job is to support those States in what they want to do, but do so with the best information that we possibly can give them about how those cars will work in practice and how the technology will develop.

Senator BAUCUS. Mr. Cannon, you've had a lot of experience at the EPA. I could go down a long list here; you are presently Special Adviser to the Administrator, is that right?

Mr. CANNON. Yes.

Senator BAUCUS. Also you are Acting Deputy Administrator?

Mr. CANNON. I was, yes.

Senator BAUCUS. Earlier this year, that's correct.

In the period 1992-1993, you were Acting Assistant Administrator for the Office of Policy, Planning and Evaluation?

Mr. CANNON. Correct.

Senator BAUCUS. In 1990-1992 you were a partner in the law firm of Beveridge & Diamond, but in 1989 you were Acting Assistant Administrator, Office of Solid Waste and Emergency Response; from 1988 to 1989 you were Deputy Assistant Administrator, Office of Solid Waste and Emergency Response; 1987-1988, Deputy Administrator, Office of Enforcement and Compliance Monitoring; 1987, Deputy General Counsel. You have also written extensively, authored many articles with respect to solid waste management. So you know a little about the subject.

Mr. CANNON. I hope so, Senator, after this much effort.

Senator BAUCUS. Now, let me read you a quote from the GAO. This is dated March 29th, 1983, before the House Committee on Government Operations, commenting generally upon EPA management: "Deficiencies in developing information systems data on regulated facilities' noncompliance with environmental regulations,

combined with the absence of a complete strategy for cross-media information management, are impeding its ability to enforce environmental laws and regulations. EPA cannot bring together and correlate data from its various programs, such as air, water, hazardous waste, and pesticides, to comprehensively assess environmental risks, identify and target the most important enforcement priorities, and conduct general program oversight. Consequently, EPA cannot identify and rank the worst polluters and set enforcement priorities accordingly."

Do you agree with that conclusion?

Mr. CANNON. That is an accurate statement, or was an accurate statement at the time it was made.

Senator BAUCUS. What has happened since March 29 of this year?

Mr. CANNON. Well, there is an effort underway within the Office of Enforcement that I'm aware of, through a system called the IDEA System, to have the capability to integrate data across programs and be able to assemble a picture on a facility-by-facility basis or company-by-company basis of the compliance status of that facility. That system is operational. I can't tell you how successful it has been, but I know that there is an effort going on there to address the problem that was raised in that report.

Senator BAUCUS. What about other efforts in addition to enforcement at EPA? I must tell you, I hear lots of people who are very knowledgeable about the EPA who come up with lots of examples of how the various departments don't talk to each other, cannot, because of rules and whatnot. It's sort of tunnel vision over there. I grant you, some of it is caused by the statutes that this Congress has passed in the last 20 years. We have the Clean Water Act that looks at only water; the Safe Drinking Water Act for the safe drinking water program; the Clean Air Act; Superfund, etc. When Congress passed these laws, Congress did not pay much attention to how they interrelate with each other, how they integrate with each other. As a consequence, we put quite a burden on a plant or facility that has to deal with a water person that makes the water changes, and "Oh, my gosh, that's in conflict with what the air person wants, and that's in conflict with what the waste person is trying to do," etc., etc. There are more and more horror stories like this.

So what's EPA doing to change that? There are certain changes that EPA could make within the agency. There are probably also some statutory changes that have to be made. But it's clear to me that if we're going to pursue—with Ms. Nichols I mentioned this—sustainable development in any meaningful way, we're going to have to go back and review the structure so that there is much more interrelation among the various environmental statutes and regulatory actions, in addition to enforcement actions that the agency is taking.

What do you plan to do about that?

Mr. CANNON. Mr. Chairman, you mentioned the need for integration across the agency in your opening remarks, and I think that's a need that is widely felt within the agency. The question is how we get from where we are with, as you would say, "stovepipe pro-

grams" which emanate from media-specific statutes, to a truly cross-media approach?

One step that the agency has taken, and I think it's a very constructive step, is in the context of the enforcement reorganization which the Administrator undertook several months ago and which has come to fruition now in a decision. The new structure of the Enforcement Office represents a new emphasis on multi-media enforcement and sector approaches; that is, each industry will be looked at from the stand-point of the enforcement effort as a whole, and all the requirements bearing on that sector will be evaluated to avoid this kind of nickel-and-diming that goes on and to realize the benefits of multi-media approaches, where they are appropriate.

So that's one step, but it's just the first step. We need to do more in that direction.

I think there is a powerful tool available; we have not yet utilized it as we should. In the information area we have a number of Balkanized information systems in the agency. They are systems that contain program information and environmental information assembled by the various program offices. We are not able yet, outside of the limited enforcement example that I mentioned, to look across that information in ways that cross the barriers that we're talking about. We do have a program going forward that I have high hopes for in the geographic information systems area to try to bring the information in EPA's various data bases together with other information that is available outside the data base.

Senator BAUCUS. If you could wave a magic wand, if you could do anything you want over there to make it work right, what are some of the things you would do?

Mr. CANNON. Well, I would put a lot more emphasis on the geographic information systems to—

Senator BAUCUS. What do you mean by that?

Mr. CANNON. I would develop integrated systems which were able to assemble data from all media as to the permitting status under the Clean Air Act, the Clean Water Act, and so forth of a facility so that we could, in one look, see what permits were applicable to that facility, what cleanup efforts were going on at that facility, what was around that facility in terms of other facilities that may be contributing to ambient environmental quality problems. And I'll be futuristic here, but we have the capability to do this—

Senator BAUCUS. What's preventing that from happening? What's the problem?

Mr. CANNON. Attention and level of resources committed to that effort.

Senator BAUCUS. Now, you could solve the attention part of that equation?

Mr. CANNON. Yes.

Senator BAUCUS. With your attention, do you think you and the Administrator have enough intention to at least solve the attention part of that equation?

Mr. CANNON. Oh, yes. I believe that.

Senator BAUCUS. You heard Ms. Nichols say that based on what she knows, she thinks she has sufficient resources to get the job

done within the air program. Are you telling me that you disagree, that EPA needs more resources? Administrator Browner basically says she thinks she has enough resources.

Mr. CANNON. We have a lot of resources in the information management systems in the agency.

Senator BAUCUS. Sorry?

Mr. CANNON. We have a lot of resources going into information management systems in the agency. What I think is that there is a better way to organize and focus those resources. If I am confirmed, one of the first things I propose to do is sit down with the folks in my office and the people in the Program Offices across the agency and develop a truly integrated information strategy for the agency.

Senator BAUCUS. That's encouraging. I encourage you to move very quickly on that.

I would like to turn briefly to contracting problems with EPA. GAO has issued a report on contracting problems; it's about a year old. It's December 3rd of last year. There was testimony before the subcommittee on Oversight and Investigations of the committee on Energy and Commerce in the House; I'll read one part.

At the core of contracting problems we have found a lack of senior-level management attention to the agency's contracting activities. In some cases, senior officials have remained blissfully ignorant to waste and abuse because the agency does not have management information systems that flag contracting problems.

In other cases, senior officials have not made managers accountable for effective contract administration, nor have they made a sufficient commitment to correct contracting problems that have surfaced.

I'm sure you're aware of this report. Do you agree with that statement?

Mr. CANNON. I think that has been an accurate statement of the agency in the past, yes.

Senator BAUCUS. Again, since December 2nd, what has happened? What are you doing about it?

Mr. CANNON. We have instituted a program that seeks to instill accountability and responsibility in the agency's senior managers. We have done that in a number of ways through the appointment of what are known as Senior Resource Officials, which are Senior Executive Service officials of the highest rank in each of the program offices and in each of the regions, who are responsible for the proper use of resources, contracts, and grants within that office.

We are in the process of defining those duties. The Senior Resource Officials have been identified, and we expect within a few months to have a formalization of that role.

In the meantime we have undertaken a program that I think has been successful within the agency of making sure that those who have contract experience or contract responsibilities in the agency understand that when they are hired, have that made clear to them in their performance agreements, and are evaluated on their performance in that regard when they receive their performance evaluations at the end of the fiscal year.

Senator BAUCUS. How much do you think the American taxpayers are losing as a consequence of waste, fraud, abuse, and lack of compliance generally at EPA in the contracting area? If you had to give a rough guess, how much is being lost or wasted?

Mr. CANNON. Mr. Chairman, I do not know that I could come up with a credible estimate.

Senator BAUCUS. But you've been over there a while. You have some sense of this. You have about as much sense of this as anybody else in this room.

Mr. CANNON. I think—and I don't mean to avoid your question—

Senator BAUCUS. Then don't.

[Laughter.]

Mr. CANNON. Let me offer this and see whether that is responsive.

I think that outright waste, fraud, and abuse in the sense of taxpayer dollars being spent for things that they should never go for, totally outside the agency's mission, that element in EPA is not large. I'll venture that.

I think, however, what we have are dollars that are being spent in a way that does not get the maximum benefit for the taxpayer.

Senator BAUCUS. Wasted?

Mr. CANNON. Wasted, in the sense that there is probably more we could get out of our contractors if we had better cost estimates, better ways of controlling costs, and so forth.

Senator BAUCUS. Just in the general area of contracting waste, what do you think the rough estimate is per year? Last year, 1992? Or to date, 1993? Millions? Tens of millions? A lot?

Mr. CANNON. A lot.

Senator BAUCUS. You heard me ask Ms. Nichols to give me a time within which she'd get her program straightened out. Is six months reasonable for you to come back to Congress?

Mr. CANNON. In six months I will be able to report to you on our progress in shaping our contracts management up.

Senator BAUCUS. Good. Thank you. I wish you luck.

[Laughter.]

Senator BAUCUS. Just a couple more questions here. I think both of you have touched on this already, but what are your priorities while you are Assistant Administrators? If you had to rank your priorities one, two, three, what would they be?

Ms. NICHOLS. Probably my first priority would have to be to restore—and I consider it is in need of restoration—credibility to the Federal clean air program. Over the years there has been a sense, and I certainly shared it when I was out in California, that the U.S. Environmental Protection Agency was not playing a leadership role in moving forward toward either providing urban environmental health protection, or in some of the areas involving maintenance and preservation of clean air in our clean air areas of the country. That may be a political perception that was unfair to the work that the agency was doing, but as a political appointee it is necessary for me to try to administer the act in a way that is seen as being faithful to the intention of the law. I recognize that there are difficulties in doing that; the act does present a lot of challenges, a lot of opportunities for conflict, but I believe there are also opportunities for new kinds of partnerships, both with governmental agencies and with the regulated community, and that will be my number one priority, looking for those opportunities and trying to maximize them; but where we do run into conflicts, to make sure that we are perceived and in reality are behaving in a way which is fair and above board across the United States.

Second, in terms of my own priorities I feel there has been a real neglect over the entire time that I have been working with the Clean Air Act which, as you know, is since the 1970 amendments have been passed, in the making the connection between air quality improvement to other social benefits. That is, I think a lot of the difficulties of the problem come from the fact that the air program operates in its own rather narrow regulatory sphere, with not very much communication or cooperation with other areas of the Government where there are actions going on that could either help or undermine our efforts to clean up the air. I would specifically cite the Department of Transportation and the urban redevelopment. I think there's a lot more that we can do there in linking some of our programs in a positive way to grant-making programs, for example, under ISTEA. I think the Surface Transportation Act and conformity offer us a major new tool that we can be using in a progressive way to help build infrastructure in our cities, to eliminate the need for increasing the vehicle miles traveled, that undermine our ability to clean up the air in our cities.

So that, for me, is the second very major priority.

I would say that the third—and I guess you're right, you could go on with things that you would like to address—but perhaps for me the third, which is also one of the Administrator's highest priorities, is in the area of environmental justice. I feel that in terms of prioritizing our resources and our efforts, we need to be looking to the places where people are facing the most risks of exposures, particularly in some of the inner city areas where people are exposed to multiple toxic pollution from different facilities, and trying to target our resources effectively on those individuals and those communities.

Senator BAUCUS. Mr. Cannon?

Mr. CANNON. We have talked about contracts and grants. That certainly is a priority.

In addition to that we have also talked about information. I think the ability to use information strategically and across programs is a very important priority that we need to pursue, and pursue vigorously.

I think we need to improve our ability to manage for results in the agency. By that I mean our ability to link, as we are not now able to do, our planning, budgeting, financial management, and performance appraisal systems so that we can understand the impact that we're having with our programs and be able to adjust accordingly through a planning and budgeting process that is responsive to results.

I, like Mary, would put environmental justice on my list, as well. The Office of Environmental Justice is in the office which I would lead, if confirmed, and I am very committed to that priority of the Administrator and hope that we can fulfill the promise of environmental justice through all of our programs.

I think the final thing I would put on my list is implementation of the National Performance Review, which, as you know, calls for streamlining within each of the Federal agencies. We are going to have a major challenge at EPA to undergo streamlining while maintaining the vigor and strength of our program. That, to me, is one of the most important things that we'll be involved in over the

next several years in this Administration, and I particularly look forward to that.

Senator BAUCUS. I appreciate that. I have just a couple more questions.

Mr. Cannon, after all is said and done, several years—ten years or however many years—after you have left EPA, what do you want to be remembered for? How do you want to be remembered during your tenure at EPA?

Mr. CANNON. I would like to be remembered as a person who helped bring programs together, helped make sense of programs that have been fragmented, and helped use that integrating effort to create a new level of environmental quality for the American people.

Senator BAUCUS. OK.

Ms. Nichols?

Ms. NICHOLS. I would like to be remembered as the Assistant Administrator who brought to the American public the fulfillment of the promise of healthy air across the United States, and I would go even farther in my ambition and hope to be remembered as the Assistant Administrator of EPA who brought global environmental protection and climate change onto the agenda of the air program, as well.

Senator BAUCUS. Thank you both very much. You have been very helpful. You obviously have very stiff challenges ahead of both of you. I will conduct an oversight hearing six months from now; we'll see where you are. I must say at the same time that we will be very helpful and cooperative in working together to accomplish the same goals and the same objectives. But by saying that, I don't mean at all to imply that this committee is going to be at all lenient if you are not meeting your objectives and your goals. It is critical that confidence be restored in the air program and that deadlines are met. If I do anything, I want to be remembered as the chairman of this committee who got the EPA to meet its deadlines.

[Laughter.]

Senator BAUCUS. That goes for you too, Mr. Cannon.

[Laughter.]

Senator BAUCUS. So we wish you luck. You have an exciting time ahead of you.

One point I forgot to add. Additional questions from members of the committee should be submitted to the staff by 6:00 p.m. today. Thank you.

The committee is adjourned.

[Whereupon, at 3:14 p.m., the committee was adjourned, to reconvene at the call of the Chair.]

[Statements submitted for the record, and responses to additional questions and a committee questionnaire follow:]

STATEMENT OF
MARY DOLORES NICHOLS
NOMINATED TO BE ASSISTANT ADMINISTRATOR
FOR AIR AND RADIATION
U.S. ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE
SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

OCTOBER 20, 1993

Mr. Chairman and Members of the Committee:

On behalf of myself and the Administrator, I want to thank the Committee for the opportunity to appear at this hearing. I have enjoyed meeting informally with many of you and with your staffs over the last few weeks, and if confirmed, I look forward to working with you in our joint effort to assure that all our citizens breathe clean air.

I am honored that President Clinton and Administrator Browner have asked me to take on this challenging job. In one way or another, as an environmental lawyer, as a state official, occasional teacher and private attorney, over the last twenty-two years I have been almost continuously involved with the Clean Air Act. As you would expect, those experiences have contributed to a strong set of environmental principles that I bring to this job, and which shape my goals for the next four years. I would like to share a few of them with you.

- (1) It is essential that we achieve the environmental goals and objectives so well established by Congress in the CAAA of 1990. This is essential for the health and welfare of our citizens and equally essential for the

health of our economy (the economic and environmental fate of much of Eastern Europe and the Soviet Union is a stark reminder of what befalls those who ignore this principle);

- (2) American businesses and workers live, work and compete in a constantly changing world economy; as a regulatory agency EPA must be cognizant of this fact and constantly strive to provide the greatest flexibility possible consistent with achieving the goals established by the Congress. This is essential for the health of our business, and the livelihoods of our citizens. A strong economy is required to generate the necessary level of investments in environmental protection.
- (3) As a third principle, I believe that we must be constantly re-inventing Air programs. The pace of scientific, technological, economic and regulatory change is so fast that we must be constantly learning and adapting. Neither we, nor the American people, can afford to rely upon business as usual. To make this principle work, we must learn from past successes and failures, seek new and more cooperative ways of relating to and working with the regulated

community, and respond to the needs of the states.

With those principles in mind, I believe that, although we have made a good start, much remains to be done in each of these areas.

Congress has set the goals, EPA has established much of the regulatory framework and now.....the primary implementation of the Clean Air Act is passing into the hands of the States. As former State environmental officials, both the Administrator and I know how important it is to get the Federal framework right, and to provide the right kind of guidance and support to the states. We also understand the importance of timeliness: I commit to you today that we will do a better job at meeting deadlines, so that States and industries will have the information they need, when they need it, to plan for compliance in the most effective and efficient way.

In this context, it is perhaps appropriate to reveal that as a brand-new lawyer I was the principal attorney suing then-Administrator Bill Ruckleshaus to promulgate a Federal Implementation Plan (FIP) for the Riverside/San Bernardino area in southern California, when the state failed to provide for attainment of the ozone health standard in a timely manner. Now, I find myself facing the awesome task of developing three court-ordered FIPs for California. As friends have noted, there indeed is some irony to my career.

Over the last few weeks, in briefings and other

meetings with the Office of Air and Radiation staff, I have had a close-up view of both the Clean Air Act work and other important regulatory efforts in such areas as the Waste Isolation Pilot Plant (WIPP) and the development of cleanup standards for radioactively-contaminated sites, as well as non-regulatory programs addressing control of radon, indoor-air pollution, and greenhouse-gas stabilization. I am impressed with the talent, commitment, and hard work of the staff: I believe that the people working in Air Programs at EPA exemplify the very best in the concept of public service, and I would be proud to be associated with them.

I am also deeply committed to helping realize the vision of both the Congress and the President in fully implementing these programs. Many of my California experiences will serve me well in this endeavor. Perhaps the best way to introduce myself to you is to point out some of these experiences, and to tell you why I believe they constitute good preparation for the tasks ahead.

As I mentioned, one of the principal themes of this Administration is that a healthy environment and a strong economy are not only compatible but essential to each other, and that the appropriate use of market-based regulatory approaches can enhance this compatibility by providing flexibility and incentives for technological innovation. I believe it, and my California experience may provide some assurance about my approach. First of all, in the 1970s, I instituted what I think was the first

State-level study of economic-incentive programs for air-pollution control: a Caltech report on SO₂ emissions charges, which in turn led to the RECLAIM program now under development in southern California. My involvement as a representative of the environmental community in the development of RECLAIM itself sharpened my appreciation of the advantages of trading programs. It also showed me what it takes to make them work -- namely, firm and unambiguous environmental goals, reliable monitoring and emissions inventories, an understanding of the industry's cost structure, and the ability to work with experts in areas such as finance and accounting. I believe these pathbreaking efforts provide useful background as market-like approaches to the environment gain wider public support.

A fundamental aspect of incentive-based approaches is that they can encourage advanced technologies that both save money and make it possible to get more environmental results. While I was the Director of the California Air Resource Board in the early 1980s, we instituted a limited and carefully-designed fleet-averaging program to help automakers meet very tough auto tailpipe standards. This program provided industry the incentive to develop the now-familiar electronic engine controls that both saved money and met the challenge of the new standards. For new and expanding industrial sources, we exempted innovative-technology solutions from offset requirements, thereby inducing development of advanced control technologies such as Selective Catalytic Reduction for NO_x control. As a result, electric

utility plants in southern California are now achieving NOx controls which are up to 20 times as stringent as EPA's "Best Available Control Technology" (BACT), and at very reasonable cost.

Flexible, forward-looking regulation has another positive effect: it stimulates small business, which is the most common source of innovation in pollution-control technologies. Most recently I saw this principle demonstrated while on the board of directors of CALSTART, a coalition of public and private organizations formed to create a clean-car industry in California. Rather than focus on major companies that could design and manufacture vehicles, CALSTART found that much of the opportunity for innovation is in the energy-efficient components that make up clean cars, and these are overwhelmingly developed and manufactured by small companies, many of which grew up around the defense and aerospace industries.

Finally, I want to mention one effort of which I am especially proud, which I think points to my future priorities if I am confirmed. While at NRDC, I helped create an environmental justice forum, made up of mainstream environmentalists, civil rights and ethnic-community advocates, and leaders of grassroots community-improvement organizations, to draft an environmental-justice compact for local action. Administrator Browner has made environmental justice one of her principal goals, and I look forward to working with her to integrate environmental-justice values into the core of Agency decision-making.

A few years ago, the job I am nominated for was listed in the "prune book" as being one of the toughest jobs in Washington because it is a job where one can really make a difference. And that difference is, to me, the most important difference -- the chance to remove millions of tons of pollution from the environment, thereby improving the health and well-being of millions of people and the quality of our environment. As you are well aware, this is a challenge and a responsibility that extends beyond the next four years. We hold in trust the right of our children and our grandchildren to have clean air to breath, a healthy environment in which to live and a strong and robust country in which to prosper.

I consider it a great honor and privilege to be nominated to work with the members of this committee in fulfilling that trust. Thank you, Mr. Chairman, for giving me this opportunity to appear before this Committee. I am happy to respond to any questions the Committee may have.

Question: Should EPA continue to maintain that states adopting the California LEV program need not require the sales mandate for Zero Emission vehicles (ZEV)?

Response: Yes.

Question: An Oct. 20, Washington Post article states that the automotive industry has proposed to EPA a "trade-off" in which they would accelerate development of alternative fuel vehicles in exchange for easing requirements that they build and sell electric vehicles. Should EPA accept or reject this proposal?

Response: To the best of my knowledge, The Oct. 20 Washington Post article is not entirely accurate. EPA has not been offered, and is not considering, a "trade-off" by the automotive industry by which the industry would accelerate development of alternative fuel vehicles in exchange for "easing" requirements for electric vehicles. There are no EPA requirements for electric vehicles, which are one type of alternative fuel technology. California's low-emission vehicle program does require the sale of electric vehicles beginning in 1998. EPA supports California's decision. Other states have the option of retaining federal standards or adopting the California program. I believe that EPA's role is to provide technical analysis so that the states can make informed choices and to support them in whatever choice they make.

Question: Does EPA have a policy with respect to encouraging development and use of the "least-polluting" alternative fuel vehicles, such as electric vehicles? If so, please explain in detail.

Response: The Clean Air Act and all EPA vehicle emission regulations are "performance" standards, i.e., compliance is based on whether a certain technology can meet applicable emission standards. Accordingly, all EPA regulations are fuel neutral and do not favor or exclude any particular fuel. As emission standards become more stringent in order to meet public health requirements, it is likely that compliance may be easier with some vehicle-fuel combinations than with others. The EPA program most likely to lead to alternative fuel use is the Inherently Low Emission Vehicle (ILEV) program. The ILEV program, which is entirely voluntary, allows vehicles which meet extremely low

emission levels to be exempted from high-occupancy vehicle lane restrictions. EPA believes that the following fuels could comply with ILEV standards: electricity, natural gas, propane, pure ethanol, pure methanol, and hydrogen.

Question:

Will EPA present policies or guidelines for the development of emission credit trading programs between mobile and stationary sources?

Response:

This past February EPA published guidelines on the generation of mobile source emission reduction credits. Included in this document were general principles on designing a mobile source credit generation program and three specific examples of programs which met this criteria (scrappage, clean buses, clean fuel fleets). The individual states that develop their own programs must take into account this guidance.

EPA's current policies permit credit trading from mobile to stationary sources in some cases. The agency now has a work group which is developing some guidance in this area, and a final rule on economic incentive programs, which addresses state programs for mobile to stationary trading, is targeted for completion in mid December, 1993. However, as was the case above, states that wish to use such programs will be able to develop specific plans for their individual programs.

Question:

What should EPA's role be in the recently announced partnership between the Administration and domestic auto manufacturers to conduct focused research and development efforts to develop a "next generation" of very efficient, clean vehicles?

Response:

EPA was involved in the discussions leading to the September 29 Clean Car agreement and will play an ongoing role in the implementation of the agreement. EPA is a member of the federal interagency team and EPA staff have already attended interagency team meetings subsequent to the September 29 announcement.

Question:

In Montana there have been many complaints about MTBE additives in gasoline making people sick. Now there is some limited evidence from the CDC that supports those claims by people in Montana and other states, particularly Alaska. EPA seems unwilling to acknowledge the possibility of health problems outside of Alaska. I know that the use of MTBE has had a positive effect in reducing air pollution in the winter months. But I also believe further study of the possible health risk of its use is needed, and that the study needs to be broader than just whether there are problems in Alaska. If confirmed as Air Administrator, would you be willing to undertake a broad study on the possible adverse health effects of MTBE in fuels.

Answer:

EPA's Office of Research and Development (ORD) is expected to shortly release a peer-reviewed analysis of the existing information on MTBE health effects. Soon thereafter, ORD will also identify any additional health studies that are needed for both Alaska and the remainder of the U.S. I will be happy to inform the Committee of EPA's recommendations and plans for further studies of the effects of MTBE and other constituents of gasoline.

Question:

Have you ever visited Wyoming or Montana and seen the coal producing areas of the Powder River Basin? Are you familiar with the issue of fugitive dust?

Answer:

I have visited both Wyoming and Montana and the Powder River Basin. I have not visited a coal mine but am interested in doing so. As a Westerner I am generally familiar with the issue of fugitive dust and in particular am aware of this issue in the context of agricultural and desert areas of California.

Question:

How familiar are you with NRC radionuclide regulations? Do you think they are adequate to protect the public health?

Answer:

I am aware that NRC regulates radiation pursuant to its authority under the Atomic Energy Act (AEA). Under the Clean Air Act (CAA), the Administrator may decline to regulate radionuclide emissions from NRC facilities, if the Administrator determines by rule, and after consultation with the NRC, that NRC's regulatory program protects the public health with an ample margin of safety. Accordingly, EPA is working closely with NRC to evaluate the NRC regulatory program. I am committed to fully implementing this provision of the Clean Air Act requirements.

Question:

EPA has responsibility for developing standards for the high level nuclear waste repository. What will you do in order to ensure those standards are developed in a timely manner?

Answer:

Under the Energy Policy Act of 1992, EPA is required to develop site-specific radiation protection standards for the potential repository at Yucca Mountain, Nevada, base upon and consistent with the findings and recommendations of a study, also required by the Act, by the National Academy of Sciences (NAS).

The Act gave NAS until October 30, 1993, to complete the study and EPA a year following receipt of the study to issue final standards. The Agency has adequately funded the NAS study and work has been initiated. The Agency is actively cooperating with the NAS and assisting them as requested. The NAS has recently informed us that the study will not be completed until early FY 1995. If this date is met, EPA would have a Congressional deadline of early FY 1996 to issue final standards.

The Agency understands the importance of this rulemaking and will act expeditiously to accomplish it in an appropriate manner.

Question:

Ms. Nichols, I appreciate your coming before the committee today to answer a few questions. Throughout this country, and especially in my own state of Idaho, average Americans in all walks of life are finding themselves dealing day-to-day with EPA and its state counterparts. One of the most persistent criticism that I hear from Idahoans, and it doesn't matter whether we're talking drinking water, clean water, or clean air, is that federal requirements do not take into account local and regional differences. As Assistant Administrator for Air and Radiation, to what extent will you be an advocate for providing greater flexibility to states and localities under the Clean Air Act?

Answer:

I am deeply committed to providing state and local officials the greatest flexibility possible to meeting their mandates under the Clean Air Act where such flexibility is consistent with achieving the goals and requirements of the Act as established by Congress.

Question:

I understand that EPA is preparing a policy statement on PM-10 non-attainment and that it is now in draft form. One of the issues in the policy statement is on what basis the EPA Administrator should exercise her authority to issue case-by-case waiver authority on the PM-10 requirements. For example, whether she might do so where exceedences are caused by natural occurrences almost impossible to control. What is your view on this issue?

Answer:

One of the important considerations in the use of the waiver authority contained in Section 188(f) of the Act is the impact of nonanthropogenic sources on PM-10 air quality violations. In considering whether or not to grant any waiver request under this portion of the Act, a key question will be the impact of nonanthropogenic or natural sources. To the extent that nonanthropogenic sources contribute significantly, it may be appropriate to waive the attainment date for such a PM-10 nonattainment area.

Question:

In Idaho, we have two neighboring cities that are on the verge of being designated in PM-10 non-attainment status. Coer d'Alene had two exceedences, one in 1989 and one in 1990. Post Falls had three exceedences right in a row in September and October 1992, which appears to have been caused by temporary road repair work. Do you think this is an appropriate basis for designating a community as in PM-10 non-attainment and would your answer be any difference if air monitoring records for the area show steady improvement in air quality?

Answer:

With respect to Coer d'Alene, this redesignation was proposed by the Agency in 1992 and the public comment period on this action has closed. Therefore, any discussion of this matter is ex-parte and not appropriate. With respect to Post Falls, I am unaware of the specifics of the situation. However, based on the information which was provided, an important question is whether or not the area violated the PM-10 national ambient air quality standard (NAAQS). The PM-10 NAAQS includes the consideration of recurrence of exceptional events in the determination of violations. To the extent that an event is not expected to recur, this can be considered in the determination PM-10 violations. Similarly, trend information can be considered in determining PM-10 violations.

Question:

Where questions have been raised about the scientific basis for a proposed non-attainment designation and about the analysis made of the existing data for a community, would you be receptive to working with a community to improve the scientific data base and the analysis prior to pursuing further a formal listing?

Answer:

Certainly, EPA wants to have the best information possible before proceeding with non-attainment designations. I view the opportunity for public input, including the submittal of additional information, to be a critical component of the process. I will continue EPA's commitment to work closely with effected states and communities on each of these determinations.

Question: Should EPA continue to maintain that states adopting the California LEV program need not require the sales mandate for Zero Emission vehicles (ZEV)?

Response: Yes.

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UNITED STATES SENATE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Nichols Mary Dolores
(Last) (First) (Middle)

Position to which nominated: Assistant Administrator EPA-Air & Radiation Date of Nomination: _____

Date of birth: 10 April 1945 Place of birth: Minneapolis, Minnesota
(Day) (Month) (Year)

Marital status: Married Full name of spouse: John Frederic Daum

Name and ages of children:

<u>Nicholas Frederic Daum</u>	<u>18</u>
<u>Margaret Eliza Daum</u>	<u>14</u>
_____	_____
_____	_____

Education:

<u>Institution</u>	<u>Dates attended</u>	<u>Degrees received</u>	<u>Dates of degrees</u>
<u>Ithaca High School</u>	<u>1959-62</u>	<u>Diploma</u>	<u>1962</u>
<u>Cornell University</u>	<u>1962-66</u>	<u>A.B.</u>	<u>1966</u>
<u>Yale Law School</u>	<u>1968-71</u>	<u>J.D.</u>	<u>1971</u>
<u>(Also one semester each at Boalt Hall Law School, 1970,</u>			
<u>and Harvard Law School, 1971)</u>			

Employment record: List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

<u>8/89-7/93</u>	<u>Natural Resources Defense Council, Los Angeles</u> <u>California, Senior Attorney</u>
<u>2/89-8/89</u>	<u>Self-Employed, Los Angeles, California</u> <u>Attorney - Environmental Consultant</u>
<u>9/87-12/88</u>	<u>People for the American Way, Los Angeles</u> <u>California, Director, Los Angeles Office</u>
<u>11/85-11/86</u>	<u>Bradley for Governor Campaign, Los Angeles</u> <u>Campaign Manager; Vice-Chair</u>
<u>1983-1987</u>	<u>Hufstedler, Miller, Carlson & Beardsley,</u> <u>Los Angeles, California Attorney (Of Counsel)</u>

Employment record—Continued

8/79-12/82	California Air Resources Board, Sacramento, CA Secretary for Environmental Affairs & Chairperson
5/78-8/79	Los Angeles City Attorney, Los Angeles, CA
1/75-1978	California Air Resources Board, Sacramento, CA Board Member
11/71-11/74	Center for Law in the Public Interest, Los Angeles California, Staff Attorney
8/67-9/68	Vera Institute of Justice, New York, New York Assistant Project Director, Manhattan Court Employment Project
2/66-8/67	The Wall Street Journal, New York, New York Reporter

Honors and
awards:

List significant scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Women of the Year, California Legislature, 1993

Susan B. Anthony Award, Hollywood Business & Professional

Women, 1992

Clean Air Award, Coalition for Clean Air, 1991

Memberships:

List significant memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
Los Angeles 2000 Partnership	Vice Chair	1992-present
California Environmental Trust	Secretary	1988-present
Greater Los Angeles Zoo Association	Trustee	1990-present
Cornell Center for the Environment	Visiting Committee	1991-present
Calstart	Board Member	1991-present
California Energy Efficiency & Renewable Technologies	Board Member	1990-present

Qualifications: State fully your qualifications to serve in the position to which you have been named.

See attached biographical statement.

I have been involved as a lawyer in interpreting and
applying the Clean Air Act since 1971. My experience
as a member and chair of the California Air Resources Board
gave me insight into EPA's role in working with States as
well as substantial experience working cooperatively with
business and other affected groups and administering and
setting policy for a large, technically advanced
government agency.

**Future
employment
relationships:**

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

Yes

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

No

3. Has anybody made a commitment to you for a job after you leave government?

No

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

Not applicable

(b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

No

(c) If you have previously held any Schedule C or other appointive position in the Executive branch, irrespective of whether the position required Congressional confirmation, please state the circumstances of your departure and its timing.

I have never served in such a position.

Financial
Statement

1. Attach a copy of your Executive Personnel Financial Disclosure Report (SF 278).
2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF 278, Schedule A.

None

3. Are any assets pledged? (Add schedule).

No

4. Are you currently a party to any legal action?

No

5. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain the circumstances.

Yes

6. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

No

Potential conflicts of interest

1. Describe any financial or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

I will have no such continuing financial interests or business dealings.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest, or the appearance of conflicts of interest, with the position to which you have been nominated.

As noted in my ethics agreement with the EPA, I have agreed to divest those financial interests that are considered likely to pose potential conflicts of interest. As reflected in the response to Question 4 below, my husband will continue to be a partner in the firm of O'Melveny & Myers.

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest, or an appearance of conflict of interest, with the position to which you have been nominated.

None

4. Explain how you will resolve any potential conflict of interest, or appearance of a conflict of interest, that may be disclosed by your responses to the above items.

As reflected in my ethics agreement with the EPA, I have agreed to divest those financial interests which have been deemed likely to pose conflicts of interest. I will recuse myself from participation in particular matters that may have a direct and predictable effect on any retained financial interests (consisting largely of mutual funds, government securities and real estate), and I will be recused from all particular matters involving specific parties in which the law firm of O'Melveny & Myers is a party or represents a party.

5. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them. For this purpose, you may utilize a statement by the relevant agency Ethics Officer.

Please see copy of my ethics agreement with the EPA and certification from the EPA designated agency ethics officer, copies of which I understand will be supplied to the Committee.

Political affiliation and activities:

List all memberships and offices held in, or financial contributions (in excess of \$1,000), and services rendered to any political party or election committee during the last 10 years.

Treasurer, State Park Bond Act, 1990 (Yes on B Committee)

California Co-Chair, Babbitt for President, 1988

Campaign Manager, Vice Chair, Bradley for Governor, 1986

Dianne Feinstein for Governor \$2,000

Dianne Feinstein for Senator \$1,000

Barbara Boxer for Senator, Primary \$450

Barbara Boxer for Senator, General \$1,000

Kathleen Brown for Treasurer of California \$2,500

Linda Griego for Mayor \$2,000

Published writings:

List the titles, publishers and dates of any books, articles, or reports you have written. (Please list first any publications and/or speeches that involve environmental or related matters.)

Step By Step, W.W. Norton 1965 (Co-Edited with Douglas Dowd).

The Amazing L.A. Environment, 1991 (with Stanley Young).

"L.A.'s Big Problem is On the Ground," L.A. Times, Jan. 3, 1991.

"Smog Trade-Offs: Devil Is In Details" (Co-authored with Tom Soto), L.A. Times, March 12, 1992.

"Economic Incentives - A Forum: The Los Angeles Venture" EPA Journal, (May/June 1992).

"Energy, Transportation and Air Quality," Engineering & Science (Fall, 1992)

For list of speeches, see attachment.

LIST OF SPEECHES
By Mary Nichols

<u>Date</u>	<u>Place/Meeting</u>	<u>Topic</u>
11/19/92	UCLA Policy Options for Southern California	Public Policy Priorities & the University's Role
11/26/93	First Congregational Church Los Angeles	Thanksgiving Day Sermon
1/93	UCLA Center for Clean Tech Air Toxics Workshop	Air Toxics
1/20/93	Claremont Institute Biltmore Hotel, L.A.	California, Market Incentives & Future of Env. Regulation
2/23/93	California State Senate Public Policy Forum Sacramento	Environmental Impact of Automobiles
3/9/93	Air/Waste Mgmt Assoc. Irvine, CA	Strategies for Obtaining & Complying w/Operating Permits Regulations
3/12/93	Eco Expo Los Angeles	The Role of Alternative Clean Transportation Fuels
3/26/93	First Unitarian Church Los Angeles	Keynote Speech Environmental Justice
3/30/93	L.A. HQ City Assoc. Los Angeles	Env. Agenda of 90's: New Policies under the Clinton Admin.
5/11/93	Inside Washington Publishers/L.A.	RECLAIM: Pioneering Market-based Air Regulation
5/13/93	City of L.A./SCAG Studio City	Keynote Speaker Env. perspective re Air Quality/Benefits of Complying with AQMP
6/14/93	So. Calif. Conf. on Environment & Development/L.A.	Panel Discussion: Sustainable Strategies for So. Calif.

Additional
Matters:

1. If there is any additional information which you believe may be pertinent to the Members of the Committee in reaching their decisions, you may include that here.

No

2. Do you agree to appear before all Congressional Committees which seek your testimony?

Yes

3. Having completed this form, are there any additional questions which you believe the Committee should ask of future nominees?

No

AFFIDAVIT

Mary D. Nichols ss, being duly sworn, hereby states that he/she has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

Mary D. Nichols

Subscribed and sworn before me this 13 day of September, 1993.

Sharon Louise Hicks
Notary Public

**Testimony of
D. Michael Rappoport
Associate General Manager
Salt River Project**

**Presented to U.S. Senate Committee on
Environment and Public Works
October 20, 1993**

Mr. Chairman:

My name is Michael Rappoport, and I am the Associate General Manager for Public and Communications Services at the Salt River Project, one of the nation's oldest and most successful reclamation projects. Through the Salt River Project Agricultural Improvement and Power District, we provide electricity to over 600,000 customers in the Phoenix metropolitan area. Through the Salt River Valley Users Association, the Salt River Project administers the water rights and is responsible for supplying water to 1½ million people in central Arizona.

On behalf of the Salt River Project, it is a pleasure today to support the nomination of Ms. Mary Nichols to serve as the Assistant Administrator for Air and Radiation of the Environmental Protection Agency. In our opinion, she has the ability, background and commitment to serve in this important position.

Ms. Nichols has established impressive credentials as an environmental advocate and has developed a noteworthy record of public and community service. As past chairperson of the California Air Resources Board and a former commissioner of the Los Angeles Department of Water and Power, Ms. Nichols earned extensive expertise in major issues that are in the ambit of the U.S. Environmental Protection Agency Office of Air and Radiation.

In addition, while in public service in California, Ms. Nichols built a commendable record of accomplishment in addressing complex air quality, transportation and energy problems. As a commissioner of the Los Angeles Department of Water and Power, for example, she successfully secured the city's

voluntary commitment to reduce carbon dioxide emissions to 1990 levels by the year 2000.

Ms. Nichols understands the practical and economic realities of utility operations. Perhaps more importantly from our perspective, she has a well deserved reputation for meeting and managing the challenge of change by building consensus rather than through confrontation.

Just a few years ago, when participants in the Navajo Generating Station, including the Los Angeles Department of Water and Power, the Salt River Project, and the U.S. Bureau of Reclamation, had reached stalemate in responding to alleged visibility problems at the Grand Canyon, Ms. Nichols was instrumental in breaking the impasse and providing the confidence that brought business, environment and government interests together. Not only was a full and fair settlement negotiated, but some very expensive legal and equipment costs were avoided through the negotiation process.

In short, Mr. Chairman, Ms. Nichols has the training and temperament, as well as the energy and expertise, to serve with distinction as Assistant Administrator for Air and Radiation of the U.S. Environmental Protection Agency.

Thank you for the opportunity to present the Committee with these views. I would be pleased to provide any additional information that the Committee may request.

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**STATEMENT OF JONATHAN Z. CANNON
CONFIRMATION HEARING
SENATE ENVIRONMENT AND PUBLIC WORKS
COMMITTEE
OCTOBER 20, 1993**

Mr. Chairman, Members of the Committee, it is a great honor to be here today as President Clinton's and Administrator Browner's nominee for Assistant Administrator for Administration and Resources Management and as the Agency's Chief Financial Officer. If confirmed, I would welcome the chance to serve the Administration and the American people in this capacity.

I am a member of the EPA's Senior Executive Service and have served in senior career positions across the Agency under three Administrators. I work at EPA, as most employees there do, out of a strong personal commitment to a healthy environment. At the same time, having also earned a living representing private clients on environmental issues, I understand the need to promote economic growth while ensuring environmental protection.

From the perspective of one who was already at the Agency when Administrator Browner arrived, I can say that this is an exciting time to be at EPA. Our environmental mission has been reaffirmed and reinvigorated, and there is a strong focus on management. The American people are asking that we manage better in order to ensure the integrity of our programs and to improve results for the environment. At the same time, they are asking that we manage more efficiently.

As you know, the Agency has acknowledged problems in its administration of contracts and grants (extramural funds) and in the management of its financial systems as well. The Administrator has responded with strong leadership to address these problems and has outlined a program which will strengthen management, responsibility and accountability in the handling of our extramural resources. We are well along in our implementation, although much remains to be done. If confirmed, I pledge to do my best to assist the Administrator in carrying out her commitment to solve these problems.

The management challenge at EPA, however, is broader than extramural resource management. We are being challenged in every aspect of our work at EPA to measure our efforts against results. Are we spending scarce dollars to our best advantage in achieving meaningful (and measurable) improvements in environmental quality? Are we wasting or misdirecting funds that would help achieve our mission? In short, we are being challenged to manage smartly against our bottom line, which is environmental quality for the people of this country.

The Administrator has talked about the two cultures at EPA -- mission and management -- and the need to bring them together. Management and mission are inextricably linked. Our environmental mission is the ultimate measure of how well we are doing; our management functions exist to support that mission. Without sound management, we cannot sustain the public confidence that is necessary for our success.

The Office of Administration and Resources Management has a major role in management of the Agency, from extramural funds, to financial management, to information management, to budget, to human resources management, to facilities, including the new Headquarters building for which we hope so fervently within the Agency. We can use these responsibilities to help bring management and mission together.

+ I have already mentioned our work to correct problems in our administration of extramural funds. We also need to increase grant flexibility to the states and communities and to help communities develop alternative financing approaches for environmental mandates.

+ We need to begin to use information strategically, as a catalyst for environmental protection efforts.

+ We need to strengthen and diversify our skilled workforce and to provide them with the tools with which to work and the space within which they can work well.

+ We need to improve our ability to manage for results. This includes integrating our planning, budgeting, financial management and program evaluation.

+ We need to implement the National Performance Review and EPA's own internal performance review which was completed this summer.

+ We need to weave a commitment to environmental justice into all our offices and programs; our goal is a clean, safe environment for all Americans.

If confirmed I look forward to working with the Administrator, this Committee and other members of Congress and the broad constituencies served by EPA to ensure that the resources entrusted to us are managed wisely.

**RESPONSE BY JONATHAN CANNON,
EPA ASSISTANT ADMINISTRATOR NOMINEE, -
TO QUESTION POSED BY
SENATOR FRANK R. LAUTENBERG**

QUESTION: As you know, I have long been very concerned about EPA's contract, fiscal and information management problems. What specific steps will you take to deal with this pervasive management problem, and when will you take them.

RESPONSE: I, too, am concerned about the management problems you have noted. However, I am heartened by the number of major Agency initiatives already underway to address these problems. Many of these initiatives were launched by Administrator Browner, herself. For example, the Administrator established the concept of the Senior Resource Official -- a single point of accountability for fiscal management in each program office and region. The Agency is currently examining how this function can be integrated with the Chief Financial Officer function, an effort which will be completed by June, 1994. We also have a multi-faceted program underway to ensure that employees are fully aware of their financial management responsibilities, are trained to carry out those responsibilities, and are evaluated by how well they do so. The implementation of that program is ongoing.

If confirmed, I will convene an effort to develop an Agency-wide information management strategy. That strategy will ensure that available resources are used to further integrate the Agency's information systems as well as ensure the systems' accessibility to the Agency's major constituencies. Presently, the Agency is making needed improvements to its Integrated Financial Management System which will be completed in March, 1994. EPA is also well along in developing its Integrated Contracts Management System which will ensure better contracts management and provide an accurate source for contract information. A working prototype will be completed by the end of 1993.

UNITED STATES SENATE**COMMITTEE ON ENVIRONMENT
AND PUBLIC WORKS**

ROOM 456 DIRKSEN BUILDING

WASHINGTON, DC 20510

INFORMATION**REQUESTED OF PRESIDENTIAL
NOMINEES**

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Statement For Completion By Presidential Nominees. The Statement is intended to be publicly available. In the event that a nominee asks that a specific answer be kept confidential, he or she should notify the Chairman and Ranking Member.

The original and forty (40) copies of the requested information should be made available to Honorable Max Baucus, Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC (Attn: Staff Director) as soon as possible.

Name of Nominee: JONATHAN Z. CANNON

Business Address: 401 M Street, S.W.
Washington, DC 20460

Business Phone: (202) 260-4600

Home Address: 406 North View Terrace
Alexandria, Virginia 22301

Home Phone: (703) 683-3252

Employment record: List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

Stockboy, Lewes Dairy Store, Rehoboth, DE; ~~Summer~~ 1968

Teacher, Troy High School, Troy, NY, September 1968 - June 1969

Teacher, Washington County Schools, Hagerstown, MD, June 1969 - June 1971

Employment record—Continued

Environmental Impact Statement Reviewer, Environmental Protection Agency,
Region III, Philadelphia, PA, Spring/Summer 1972

Summer Associate, Arnold & Porter, Washington, DC, Summer 1973

Law Clerk to Chief Judge David Bazelon, U.S. Court of Appeals for the
D.C. Circuit, Washington, DC, July 1974 - July 1975

Associate/Partner, Beveridge & Diamond, P.C., Washington, DC, Sept 75 - Aug 86

Senior Career Employee, Environmental Protection Agency, Washington, DC
September 1986 - January 1990

Partner, Beveridge & Diamond, PC, Washington, DC, January 1990 - Sept 1992

Senior Career Employee, Environmental Protection Agency, Washington, DC,
September 1992 - Present

Honors and awards:

List significant scholarships, fellowships, honorary degrees, military medals,
honorary society memberships, and any other special recognitions for outstanding
service or achievement.

Williams College: B.A. Summa Cum Laude; Phi Beta Kappa

Carroll Wilson Fellowship to Oxford University

University of Pennsylvania Law School: J.D. Cum Laude; Order of the Coif;

University of Pennsylvania Law Review; Law Clerk, Chief Judge David L.

Bazelon, U.S. Court of Appeals for D.C. Circuit

Memberships:

List significant memberships and offices held in professional, fraternal, business,
scholarly, civic, charitable and other organizations.

<u>Organization</u>	<u>Office held (if any)</u>	<u>Dates</u>
<u>University of PA Law Review</u>	<u>Editor-in-Chief</u>	<u>1973 - 1974</u>
<u>Phi Beta Kappa</u>	<u>President Undergraduate</u>	<u>1966 - 1967</u>
	<u>Chapter</u>	

Qualifications: State fully your qualifications to serve in the position to which you have been named.

I have held a number of senior management positions at EPA that have involved budget formulation and execution; financial management and reporting; design and operation of large information systems; procurement; and human resource management. From my experience in these positions and thirteen years in the practice of environmental law, I am also conversant with environmental law and policy issues across the Agency's programs. This experience will be helpful in tackling the tough management and budgetary issues that face the Agency and in fulfilling the Administrator's pledge to unite "mission" and "management" at EPA.

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

I am currently employed by EPA in the Senior Executive Service
(Career)

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

I have no current plans for employment after completing government service.

3. Has anybody made a commitment to you for a job after you leave government?

No

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

N/A

(b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

No

(c) If you have previously held any Schedule C or other appointive position in the Executive branch, irrespective of whether the position required Congressional confirmation, please state the circumstances of your departure and its timing.

My previous service in the Executive Branch has been in
career positions.

Financial
Statement

1. Attach a copy of your Executive Personnel Financial Disclosure Report (SF 278).
2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF 278, Schedule A.

None

3. Are any assets pledged? (Add schedule).

No

4. Are you currently a party to any legal action?

No

5. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain the circumstances.

Yes

6. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

No

Potential conflicts of interest: 1. Describe any financial or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest, or the appearance of conflicts of interest, with the position to which you have been nominated.

My investments and other holdings are currently being discussed with the Agency Ethics Officer. My ethics agreement will be provided to the Committee.

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest, or an appearance of conflict of interest, with the position to which you have been nominated.

I have been an employee of the Federal Government during the periods indicated above. Also I have represented clients in matters before the Agency as a partner of Beveridge & Diamond, PC.

4. Explain how you will resolve any potential conflict of interest, or appearance of a conflict of interest, that may be disclosed by your responses to the above items.

See attached ethics agreement.

5. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them. For this purpose, you may utilize a statement by the relevant agency Ethics Officer.

See attached ethics agreement.

Political affiliation and activities: List all memberships and offices held in, or financial contributions (in excess of \$1,000), and services rendered to any political party or election committee during the last 10 years.

During the last 10 years, my wife and I have contributed to both Democratic (state and national) and Republican (local and state) party organizations. None of those contributions was in excess of \$1000. During that period I did not render services to any political party or election committee.

Published writings:

List the titles, publishers and dates of any books, articles, or reports you have written. (Please list first any publications and/or speeches that involve environmental or related matters.)

List attached.

Cannon, J.Z., "Geographic Approaches to Environmental Management: Applied Bioregionalism" (scheduled for publication in Proceedings of Watershed '93: A National Conference on Watershed Management).

Cannon, J.Z., "Superfund Liability Provisions: Impact on the Industrial and Insurance Sectors," U.S. Waste Management Policies: Impact on Economic Growth and Investment Strategies (American Council for Capital Formation, Monograph Series on Tax and Environmental Policies and U.S. Growth) (May 1992).

Porter, J.W., and J.Z. Cannon, "Waste Minimization: Challenge for American Industry," Business Horizons, Vol. 35, No. 2 (March-April 1992).

Hedeman, W.N., J.Z. Cannon, and D.M. Friedland. "Superfund Transaction Costs," Environmental Law Reporter, Vol. 21, No. 7 (July 1991).

Williams, M.E. and J.Z. Cannon. "Rethinking RCRA for the 1990's," Environmental Law Reporter, Vol. 21, No. 2 (Feb. 1991).

Cannon, J.Z., D. Patterson, and N. Tammi. "Amending the Resource Conservation and Recovery Act," Legal Times (Special Supplement)(Dec. 1991).

Cannon, J.Z., J.S. Guttman, and M. Bazany. "EPA Enforcers Adopt a Coordinated Approach," National Law Journal (Sept. 1991).

Frye, R.S., J.W. Blattner, J.Z. Cannon and J.N. Hanson. Clean Water Act Permit Guidance Manual, Executive Enterprises Publications, Inc. (1984).

Note, "Environmental Analysis and Reporting in Highway Systems Planning," University of Pennsylvania Law Review, Vol. 121, No. 4 (April 1973).



Additional
Matters:

1. If there is any additional information which you believe may be pertinent to the Members of the Committee in reaching their decisions, you may include that here.

I very much look forward to the prospect of working under the Clinton Administration to ensure the strongest possible management of the nation's environmental program.

2. Do you agree to appear before all Congressional Committees which seek your testimony?

Yes

3. Having completed this form, are there any additional questions which you believe the Committee should ask of future nominees?

No

AFFIDAVIT

Jonathan Z. Cannon, being duly sworn, hereby states that he/she has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

Subscribed and sworn before me this 5th day of September 1993.


Notary Public

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